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Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Turkey

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, on his mission to Turkey from 25 November to 2 December 2016. During his visit, the Special Rapporteur was given access to locations of deprivation of liberty throughout the country and was able to conduct confidential interviews with detainees of his choosing, for which he expresses his appreciation to the Government of Turkey.

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Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Turkey*

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* Circulated in the language of submission only

I. Introduction

1. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Nils Melzer, conducted a visit to Turkey, at the invitation of the Government, from 27 November to 2 December 2016.

2. During his visit, he met high-level officials of the Ministries of Foreign Affairs, Justice and the Interior (including the Turkish National Police and the General Command of the Gendarmerie) in Ankara, magistrates of the Constitutional Court and the Court of Cassation, the Public Prosecutors of Ankara and Diyarbakır, a representative of the Human Rights and Equality Institution of Turkey, members of the Council of Forensic Medicine in Istanbul, and representatives of administrative, judicial and security services of the areas he visited (Ankara, Diyarbakır, Şanlıurfa and Istanbul). He also met with representatives of United Nations agencies and of the diplomatic community, with civil society organizations, activists, lawyers and doctors, and with victims of torture.

3. The Special Rapporteur expresses his sincere appreciation to the Government of Turkey for renewing the invitation extended to his predecessor to visit the country, despite the volatile security situation and the various political challenges. In particular, the Special Rapporteur wishes to thank the Ministry of Foreign Affairs for its excellent cooperation, for its efforts to facilitate meaningful official meetings, and for granting access to detention facilities in full compliance with the terms of reference for fact-finding missions by special procedures mechanisms.

4. The Special Rapporteur shared his preliminary findings with the Government at the conclusion of his visit. He expresses his appreciation for the responses provided by the Government to his preliminary observations on 17 December 2016,[1] and in particular for the measures taken in response to his observations as announced by the Government during the interactive dialogue with the Human Rights Council of 2 March 2017.

5. Due to maximum duration of five working days imposed by the Government in respect of visits by special procedure mandate holders (most States grant 10–14 working days), the Special Rapporteur was unable to conduct a thorough analysis of all areas of relevance to his mandate, and focused primarily on torture and ill-treatment alleged to have occurred in the contexts of the failed coup attempt in July 2016 and the escalating violence in the south-east of the country. As a consequence, important issues of interest, such as the extracustodial use of force by the police and security forces, the situation of irregular migrants, of residents of psychiatric clinics and of other particularly vulnerable populations, gender-based violence, and the issue of the death penalty, could not be examined with sufficient rigour. While fully acknowledging the logistical and administrative burden that such visits represent for the host State, the Special Rapporteur strongly encourages the Government to favourably reconsider the said time constraints for future visits by special procedure mandate holders so as to ensure comprehensive and objective reporting on all issues of mutual interest.

II. Legal framework

A. International and regional level

6. Turkey is a party to the main United Nations human rights treaties prohibiting torture and other cruel, inhuman or degrading treatment or punishment, including the International Covenant on Civil and Political Rights and its Optional Protocols, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

[1] Press release on the Special Rapporteur's preliminary observations, of 17 December 2016. Available at www.judiciaryofturkey.gov.tr/Press-Release-on-the-Preliminary-Observations-of-Nils-MELZER-the-UN-Special-Rapporteur-on-Torture

Punishment and its Optional Protocol, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

7. At the regional level, Turkey is a member of the Council of Europe and is a party to the Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights) and its Protocols Nos. 2–12, and to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its Protocol No. 2.

B. National level

8. The Constitution was adopted in 1982 and has been revised numerous times, with the aim — among other things — of putting in place new mechanisms for safeguarding human rights, namely the Ombudsman Institution and a system for individual applications to the Constitutional Court. Since the Special Rapporteur's visit, constitutional amendments in favour of a presidential system have been adopted, through a national referendum held on 16 April 2017.

9. In its article 17, the Constitution enshrines the right to be free from torture and other ill-treatment and the right not to be subjected to penalties or treatment incompatible with human dignity. In its article 19, it provides for the right to liberty and security of the person and the immediate notification of the next of kin in cases of arrest or detention.

10. Moreover, article 90 of the Constitution gives priority, in cases of conflict, to international human rights treaties concluded by Turkey over national law, and specifies that such treaties carry the force of law.

11. The Criminal Code of Turkey, of 2004,[2] criminalizes torture and defines it as a serious crime. Pursuant to articles 94–96, any public official who acts towards a person in a manner incompatible with human dignity, which causes that person to suffer physically or mentally or to lose the ability to act according to his or her own will, or which dishonours or insults a person, is to be punished by imprisonment for a period ranging between 3 and 12 years (art. 94), with up to life imprisonment in aggravated cases (art. 95). The Special Rapporteur welcomes the abolishment of the statute of limitations with regard to the offence of torture, by an amendment passed in April 2013.[3]

12. The Code of Criminal Procedure[4] provides for additional safeguards against torture and ill-treatment. Article 147 prescribes legal standards for the interviewing of suspects, which are aimed at the prevention of torture and ill-treatment and which include notification of charges, the right to legal counsel, the right to remain silent, notification of the arrest to next of kin, and the obligation to record every interview in writing, or to make an audio and video recording in the case of individuals suspected of acts of terrorism.

13. In addition, the exclusionary rule enshrined in article 148 provides that confessions obtained through any bodily or mental intervention that impairs the free will, such as misconduct, torture, the administering of medicines or drugs, physical coercion or threats, shall not be used as evidence and shall not serve as a basis for evidence in any proceedings. In article 206 (2) (a) it is reiterated that any evidence that has been unlawfully obtained shall not be admissible in court, and in article 217 (2) it is confirmed that criminal charges may only be proven on the basis of evidence that was obtained lawfully.

14. An additional safeguard is the temporal limitation of custody by the police or the gendarmerie. Generally, the authorized period of custody is a maximum of 24 hours.[5] For

[2] Law No. 5237 of 2004.

[3] Law No. 6459, art. 9.

[4] Law No. 5271 of 2004, available at https://www.unodc.org/res/cld/document/tur/2005/turkish_criminal_procedure_code_html/2004_Criminal_Procedure_Code.pdf and at www.mevzuat.gov.tr/MevzuatMetin/1.5.5271.pdf.

[5] Code of Criminal Procedure, art. 91 (1), and Regulation on Apprehension, Detention and the Taking of Statements, of 2005, sect. 1.

certain offences specified by law, the period of custody can be extended to 48 hours, and for terrorism-related offences it may be extended to a maximum of four days.[6]

15. The suspicion that an individual may have committed torture is specifically listed as a reason for arrest (art. 100 (3) (a) (4)), regardless of the risk of abscondment or of the destruction of evidence.

16. Article 2 (2) of the Law on the Execution of Sentences and Security Measures provides that cruel, inhuman, degrading or humiliating treatment may not be used in the execution of sentences and security measures.

17. Law No. 6458 on Foreigners and International Protection includes a provision on subsidiary protection for individuals in danger of being subjected to torture if returned to their country of origin or habitual residence (i.e. on non-refoulement).

18. Law No. 2559 on the Powers and Duties of the Police was significantly revised in March 2015 through the adoption of Law No. 6638, which introduced, in particular, enhanced police powers to conduct searches, to use weapons, to wiretap, to detain individuals without a warrant and to remove demonstrators from scenes of protest, and which also provided for a significant reform of the gendarmerie.

19. Law No. 6332, of 21 June 2012, established the National Human Rights Institution of Turkey. On 20 April 2016, the National Human Rights Institution of Turkey was replaced by the Human Rights and Equality Institution of Turkey, which is mandated to carry out "activities for protecting and improving human rights, ensuring the right to equal treatment of persons, preventing discrimination in enjoying rights and freedoms recognized by law and acting in accordance with these principles, effectively combating torture and ill-treatment and functioning as the national prevention mechanism in this regard".[7]

III. Assessment of the situation

A. General observations

20. The Special Rapporteur is of the view that, in principle, the institutions, Constitution and legislation of Turkey provide sufficient institutional and legislative safeguards against torture and ill-treatment.

21. Turkey experienced several military coups between the 1960s and the 1990s, and torture and other forms of ill-treatment, particularly in the context of security operations, have been a long-standing problem. After the taking of power by the Justice and Development Party (AKP) in 2002, and until mid-2015, reports of torture and other forms of ill-treatment significantly decreased.

22. In particular, the Special Rapporteur commends the introduction, between the late 1990s and 2007, of safeguards for the prevention of torture and other forms of ill-treatment — including limitations on the duration of custody, prompt access to legal counsel, the mandatory medical examination of detainees, tighter standards for the recording of arrests and detentions and for the taking of statements, and the installation of audiovisual recording systems in many detention and interview rooms of counter-terrorism departments. The Special Rapporteur is also encouraged by the lifting in 2013 of the statute of limitations for the offence of torture. He also especially welcomes the express commitment of the Government to a zero-tolerance policy on torture, as consistently emphasized by all officials of the Government during their dialogue with the Special Rapporteur.

23. Nevertheless, the Special Rapporteur notes with concern that there seemed to be a serious disconnect between declared government policy and its implementation in practice.

[6] Code of Criminal Procedure, art. 91 (3) and art. 251 (5), and Regulation on Apprehension, Detention and the Taking of Statements, sect. 14.

[7] Law No. 6701, art. 1.

Most notably, despite persistent allegations of widespread torture and other forms of ill-treatment, made in relation both to the immediate aftermath of the failed coup of 15 July 2016 and to the escalating violence in the south-east of the country, formal investigations and prosecutions in respect of such allegations appear to be extremely rare, thus creating a strong perception of de facto impunity for acts of torture and other forms of ill-treatment.

24. In the aftermath of the failed coup, on 20 July 2016, the Government of Turkey declared a state of emergency, derogated from both the European Convention on Human Rights and the International Covenant on Civil and Political Rights, and adopted a series of decrees with the force of law (*kanun hukmunde kararname* (KHK)) extensively interfering with the human rights of persons suspected to be associated with the coup plotters or the Gülenist movement. In particular, in the period between the failed coup and the Special Rapporteur's visit, approximately 100,000 public officials had been suspended or dismissed, and more than 40,000 individuals had been arrested, including military and police officers, judges, prosecutors, human rights defenders, journalists, lawyers and health-care personnel. Since the Special Rapporteur's visit, many more such arrests have reportedly taken place.

25. While fully recognizing the difficult circumstances that Turkey is facing in the presence of multiple threats against the security of the State, the Special Rapporteur stresses the need for urgent action on the part of the Government with a view to ensuring the strict compliance of all State officials with existing laws and safeguards for the prevention, investigation and prosecution of torture and other cruel, inhuman or degrading treatment or punishment.

B. Torture and ill-treatment

1. Arrests and detentions in the aftermath of the failed coup d'état of 15 July 2016

26. According to numerous consistent allegations received by the Special Rapporteur, in the immediate aftermath of the failed coup, torture and other forms of ill-treatment were widespread, particularly at the time of arrest and during the subsequent detention in police or gendarmerie lock-ups as well as in improvised unofficial detention locations such as sports centres, stables and the corridors of courthouses. More specifically, the Special Rapporteur heard persistent reports of severe beatings, punches and kicking, blows with objects, *falaqa*, threats and verbal abuse, being forced to strip naked, rape with objects and other sexual violence or threats thereof, sleep deprivation, stress positions, and extended blindfolding and/or handcuffing for several days. Many places of detention were allegedly severely overcrowded, and did not have adequate access to food, water or medical treatment. Also, both current and former detainees alleged that they had been held incommunicado, without access to lawyers or relatives, and without being formally charged, for extended periods lasting up to 30 days.

27. Medical examinations conducted by the forensic expert accompanying the Special Rapporteur indicated that physical signs consistent with allegations of ill-treatment were visible only in a limited number of cases, most probably due to the time that had elapsed between the alleged abuse and the visit of the Special Rapporteur. However, many detainees showed signs of anguish, distress and psychological trauma consistent with their allegations, and, in some cases, mental disturbances, such as depression and post-traumatic stress disorder requiring psychological or psychiatric support.

28. Within approximately two weeks of the failed coup, once detainees had been transferred to regular detention facilities, conditions and treatment appear to have improved significantly. Most detainees arrested in relation to the failed coup stated that, apart from occasional verbal threats and insults, they were no longer subjected to torture or ill-treatment.

2. Arrests and detentions related to violence in the south-east

29. The south-eastern regions of Turkey have been marked by violence between State authorities and the armed Kurdistan Workers' Party (PKK) since the 1980s. Following the

breakdown of the government-initiated peace process in July 2015, there has been an escalation of violence in the region. The situation deteriorated further after the attempted coup of July 2016. Most notably, the state of emergency decrees apply not only to offences related to the failed coup, but to all terrorist offences, including those occurring in the context of the violence in the south-east.

30. The Special Rapporteur received numerous testimonies of torture and other forms of ill-treatment of both male and female individuals suspected of being members or sympathizers of the PKK and other groups affiliated with the Kurdish insurgency. The Special Rapporteur also met with individuals suspected of affiliation with Islamic State in Iraq and the Levant (ISIL). Most instances of ill-treatment were alleged to have been inflicted upon apprehension and arrest, as well as during transit to the detention location, predominantly by the special operations teams of the police or by the gendarmerie. Ill-treatment was also alleged to have occurred during interrogations in the early hours and days of detention in holding cells. The methods of torture and other forms of ill-treatment were reported to have included severe beatings, kickings, punches, verbal assaults, threats of sexual violence, prolonged stress positions and handcuffing, and being deprived of adequate access to water, food and sleep. One individual reported having been raped with objects.

31. Reportedly, the ill-treatment occurring in relation to the failed coup largely ceased a few weeks after the coup. However, torture and ill-treatment in relation to the violence in the south-east was alleged to be widespread in the initial phase of custody and interrogation. The Special Rapporteur received consistent reports that, in that context, the aim of torture and ill-treatment was to coerce victims to confess or to denounce others from a list of names and photographs of suspected members of terrorist organizations. Many inmates reported that they had been arrested on the basis of false accusations or denunciations made against them under torture. Physical ill-treatment was generally reported to have ceased after transfer to a regular detention facility. However, occasional abuse and degrading treatment allegedly continued, including verbal assaults and threats, slaps, and invasive body searches, as well as male guards sexually threatening or harassing female detainees during transfers and denying them privacy during medical examinations.

3. Solitary confinement

32. The Special Rapporteur heard numerous allegations that a great number of high-ranking military officers, Supreme Court judges, prosecutors, and other civil servants arrested for reasons related to the failed coup, as well as high-ranking members of pro-Kurdish political parties, had been held in prolonged solitary confinement. The Special Rapporteur was unable to confirm those allegations due to the time constraints imposed on his visit. Nevertheless, he wishes to recall that prolonged (of more than 15 days) or indefinite solitary confinement contravenes the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Moreover, because of the prisoner's inability to communicate with the outside world, solitary confinement also gives rise to situations conducive to other acts of torture or ill-treatment.

4. Strip searches and invasive body searches

33. The Special Rapporteur notes with concern that invasive body searches have frequently been alleged to have been conducted in a disrespectful manner both on the inmates themselves and on visitors. Body searches on inmates are reportedly also performed upon arrival in the prison, before and after transfers or other temporary exiting of the premises such as for medical treatment, and sometimes even inside the detention centres and cells, without prior warning or apparent justification. The frequency of such searches is reported to have increased significantly since the failed coup in July 2016.

34. The Special Rapporteur appreciates the clarifications made by the Government in relation to the practices, in its press release of 17 December 2016,[8] and recognizes that there may be situations when such searches are required. However, given that any such search creates an inherently delicate situation marked by a significant risk of abuse, body searches should be avoided and, to the extent possible, less intrusive measures for detecting the entry of illegal objects should be used. Whenever body searches are unavoidable, authorities must be particularly careful to ensure that they are conducted in a respectful manner, consistent with the person's human dignity, with the right to privacy, and with the absolute prohibition of cruel, inhuman or degrading treatment.

C. Conditions of detention

1. Overview

35. At the time of the visit, Turkey was reported to have 373 penitentiaries and detention facilities[9] with an approximate capacity of 180,000 inmates.[10] 1,264 police stations with 1,197 lock-ups, 2,012 custodial areas in the internal security units of the gendarmerie, and 303 lock-ups under 81 provincial public security branch offices, with a total of 52,000 guards.[11]

36. The attempted coup and the subsequent mass arrests reportedly led to an influx of 42,083 detainees[12] into the detention system, taking the prison population in Turkey up to 203,255 (which is ordinarily around 150,000, including 51,000 persons detained for terrorism-related offences and 2,255 persons detained in connection with organized crime).[13] By a decree of 17 August 2016, approximately 44,000 inmates were released to accommodate the new arrivals. Nevertheless, the massive influx of detainees led to overcrowding in many facilities and significantly increased the proportion of pretrial detainees. The Special Rapporteur took note of the latest figures provided by the Ministry of Justice in June 2017 indicating that Turkish prisons were holding more than 224,878 individuals, which further compounded the risk of overcrowding.[14]

37. In the course of his visit, the Special Rapporteur visited the Sincan prison complex in Ankara, including its F-type high security section and its female detention facilities, the D-type high-security and E-type closed prisons in Diyarbakır, including the male, female and juvenile sections, the counter-terrorism police holding cells in Şanlıurfa, two police stations in Esenler, Istanbul, and the closed No. 9 prison in the Silivri Penitentiaries Campus in Istanbul.

38. In general, the facilities visited were purpose-built detention centres, and in terms of infrastructure were adequately equipped. Overall, conditions of detention were found to be satisfactory or, at least, acceptable in the circumstances, save for the particular problems observed under the headings below.

2. Overcrowding

39. All the facilities visited, except the Silivri Penitentiaries Campus in Istanbul, were significantly overcrowded, with occupancy ranging from 125 per cent to more than 200 per

[8] Press release on the preliminary observations of the Special Rapporteur, available at www.judiciaryofturkey.gov.tr/Press-Release-on-the-Preliminary-Observations-of-Nils-MELZER-the-UN-Special-Rapporteur-on-Torture.

[9] Figure as per the Special Rapporteur's meeting with a representative of the General Directorate of Prisons and Detention Houses on 28 November 2016.

[10] Figure as at 18 February 2016, provided by the General Directorate of Prisons and Detention Houses.

[11] Figures as per the Special Rapporteur's meeting with a representative of the General Directorate of Prisons and Detention Houses on 28 November 2016.

[12] Figure as at 4 January 2017, provided by the Ministry of Justice to the Parliamentary Coup Investigation Commission.

[13] Figures as per the Special Rapporteur's meeting with a representative of the General Directorate of Prisons and Detention Houses on 28 November 2016.

[14] See www.cte.adalet.gov.tr.

cent of the actual capacity. In some institutions, the overcrowding appeared to have resulted from the mass arrests after the failed coup. In other locations, overcrowding appears to have been persistent for several years, particularly in the women's block of the Diyarbakır E-type detention facility.[15]

40. According to the authorities, the overcrowding was largely the result of the intensification of the violence in the south-east since July 2015, and of the massive influx following the attempted coup in July 2016. In order to absorb this influx, several new penitentiaries were being constructed. While the Special Rapporteur welcomes the authorities' efforts to alleviate the overcrowding through the construction of new detention facilities, he also encourages the Government to consider alternative law enforcement measures to deprivation of liberty.

3. General conditions of detention

41. The overcrowding observed negatively affected various aspects of the general conditions of detention, including access to work, training, recreational and cultural activities, and visits and phone calls with family members and lawyers, all of which are important for the well-being and rehabilitation of inmates.

42. While distance learning was available to all inmates, the Special Rapporteur is particularly concerned about the lack of schooling and insufficient access to recreational activities for juvenile pretrial detainees whom he visited in the juvenile section of the E-type closed prisons in Diyarbakır. Also, adult inmates under high-security regimes were not allowed to work at all.

43. The Special Rapporteur welcomes the fact that, with the exception of persons in police custody, yards were accessible to all inmates and open for most of the day in all the detention centres he visited.

44. In most of the facilities visited, cells and common areas were cold. According to consistent testimonies from inmates, although the physical heating infrastructure seemed adequate, the heating reportedly was turned on only during the night.

45. The majority of facilities visited, with the exception of the police holding cells, had adequate ventilation or an adequate supply of fresh air, as well as sufficient natural and artificial light in the cells.

46. For all inmates charged with or convicted for terrorist-related offences, family visits and phone calls have been reduced — to two visits and two phone calls each month — and have been put under systematic surveillance. Ordinary criminals continue to be entitled to four one-hour visits each month, as well as to more extensive telephone rights.

4. Separation of pretrial detainees from convicts, and of male, female and juvenile inmates

47. While a strict separation between male, female and juvenile inmates was maintained in all the institutions visited, pretrial detainees and convicts were often intermingled in the same cells and blocks. Separation was made on the basis of the type of crime, with most detainees charged with or convicted of terrorist-related offences held separately from others. Occasionally, adolescent girls were found being held in blocks for female adults. The Special Rapporteur recommends that the Turkish authorities introduce separation between pretrial detainees and convicts in all its prison facilities.

5. Medical care, sanitary conditions and nutrition

48. While access to health care is guaranteed in principle, the overcrowding prevalent in most detention facilities seems to have had a negative impact on prompt and adequate access to medical care.

[15] At the time of the Special Rapporteur's visit on 29 November 2016 the detention centre was operating at an occupancy of 1,481 inmates, whereas its capacity is for 1,035 inmates.

49. Thus, in the large facilities visited, the number of and/or hours of attendance of general practitioners was insufficient for the number of inmates. This shortcoming was even more acute in regard to dental care, which frequently could not be provided in accordance with the detainees' needs. Psychiatric and/or psychological support was often not available at all or was not provided as a routine preventive measure. For example, the D-type closed prison in Diyarbakır had only one general practitioner and one dentist for a population of over 1,000 inmates.

50. While medical equipment and supplies were generally found to be adequate in the detention facilities, and treatment was provided free of charge, the Special Rapporteur received allegations that inmates with medical conditions requiring transfer to hospital were only transferred in groups, once a sufficient number of detainees requiring such transfer had been reached, thus making prompt access to the required medical care problematic.

51. While adequate treatment and isolation of contagious diseases seemed to be provided when required in individual cases, there seemed to be no specific programmes for the management of contagious diseases, HIV/AIDS or drug addiction, all of which frequently occur in detention facilities.

52. Sanitary and hygienic conditions observed in the facilities were generally satisfactory, though they were also affected by the predominant overcrowding. Often, 20 to 30 detainees had to share one toilet and one shower, without sufficient hot water for each detainee.

53. Nutrition appeared to be sufficient in all detention centres visited, both in terms of the quantity and quality of food provided and in terms of protein and vitamin content. Also, inmates had access to sufficient quantities of drinking water.

6. Situation in police holding cells

54. The Special Rapporteur is seriously concerned about the conditions of detention in police holding cells. Such cells are designed to hold detainees for a few hours, or at most for one or two days, but are clearly not adequate for holding detainees for longer periods. This has raised serious problems, in view of the extension of the duration of police custody to 30 days. The Special Rapporteur therefore appreciates the Government's announcement during the interactive dialogue with the Human Rights Council on 2 March 2017 that, in the meantime, the extension is reduced to seven days, and urges its complete revocation without delay.

55. In the police stations visited, holding cells generally had only barred doors, and were often under 24-hour video surveillance, thus depriving inmates of the most basic degree of privacy. In some places, constant bright lighting caused inmates to lose their sense of time. Cells generally had no windows and were too small to hold inmates for more than a few hours, and sometimes detainees were held in groups of 20–30 persons in shared rooms of clearly inadequate size. Detainees shared toilet and shower facilities outside their cell, which could only be accessed upon request. In some facilities, inmates reported that their cells had not been heated at all until heaters were finally installed shortly before the Special Rapporteur's visit. In some instances, mattresses and covers were allegedly only provided a few days before the Special Rapporteur's visit, and the facilities had visibly been freshly painted.

56. Detainees in police stations had no access whatsoever to a yard, sunlight and fresh air, which may be acceptable for a few hours, but clearly is not for periods exceeding 48 hours.

D. Safeguards and prevention

1. Emergency decrees and derogations from regional and international treaties

57. Following the failed coup, the Government declared a state of emergency and notified the Council of Europe on 22 July 2016 that it was derogating from the European Convention on Human Rights, without specifying any particular provisions. With effect

from 2 August 2016, it also derogated from the International Covenant on Civil and Political Rights, as permissible under article 4, in regard to articles 2, 3, 9, 10, 12, 13, 14, 17, 19, 21, 22, 25, 26 and 27.

58. Turkey also adopted a series of decrees with the force of law significantly affecting the human rights and procedural guarantees of individuals, groups and organizations suspected of being involved with the attempted coup, with the Gülenist movement or in other activities perceived to be related to terrorism.

59. In July 2017, the Turkish Cabinet extended the state of emergency for a further three months.

60. While the Special Rapporteur recognizes the imperative for Turkey of protecting its citizens and institutions and its right to take extraordinary measures in times of emergency, he is mindful that derogations from international treaties may not "exceed those strictly required by the exigencies of the actual situation".[16]

61. With regard to the International Covenant on Civil and Political Rights, the Special Rapporteur is particularly concerned by the derogation from article 10 (on humane treatment and human dignity), article 2 (3) (on effective remedies) and article 14 (on fair trial). The Human Rights Committee has noted that while article 14 is not included in the list of non-derogable rights of the Covenant, "the guarantees of fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights". The Committee concluded that "deviating from fundamental principles of fair trial, including the presumption of innocence, is prohibited at all times".[17]

62. The mass arrest, dismissal or suspension of civil servants, including judges, prosecutors and other representatives of the judiciary, has entailed major setbacks and delays in the administration of justice in Turkey.[18]

2. Prolonged detention without access to counsel or to judicial review

63. It is during the first hours and days after arrest that the risk of torture and other forms of ill-treatment is the highest. The right to have access to a lawyer promptly after apprehension and at all stages of the investigation process constitutes an effective safeguard against such abuse.

64. Of particular concern to the Special Rapporteur is Decree Law No. KHK/667,[19] adopted on 22 July 2016, which extended the maximum duration of detention without charge or judicial review to 30 days (art. 6 (a)),[20] and which severely curtailed access to lawyers for detainees suspected of posing a risk to public security, or of exchanging information with a terrorist organization (art. 6 (d)). It provides for officials to be present and/or to make audio and video recordings of meetings between detainees and their lawyers, and to seize any documents exchanged or kept during those meetings. In addition, interviews and meetings between counsel and client may be limited upon the public prosecutor's orders. Legal professionals who are themselves suspected of having supported the attempted coup may be removed from legal counsel duties (art. 6 (g)).

65. Furthermore, after the adoption of the decree dated 25 July 2016, No. KHK/668,[21] the period of custody without access to a lawyer was extended to up to five days (art. 3

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[16] See Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, paras. 65–67.

[17] See Human Rights Committee, general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, para. 6.

[18] According to information provided on 4 January 2017 by the Ministry of Justice to the Parliamentary Coup Investigation Commission.

[19] Decree on measures to be taken under state of emergency, available at www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2016)061-e.

[20] Reiterated in art. 3 (a) of Decree Law No. KHK/668.

[21] Decree law on measures to be taken under the state of emergency and arrangements made on certain institutions and organizations, available at www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2016)061-e.

(m)), and if the investigation may be compromised, the defence counsel's right to examine the case file can be restricted by a decision of the prosecutor (art. 3 (l)). While the Special Rapporteur notes that no statement is to be taken from a suspect while he or she is held without access to counsel (art. 3 (m)), this provision exposes suspects de facto to incommunicado detention and, thus, makes them particularly vulnerable to torture and other forms of abuse. Moreover, prolonged incommunicado detention can even constitute a form of ill-treatment in and of itself.[22]

66. The Special Rapporteur regrets that some of those provisions have been made permanent. Thus, article 3 of Decree Law No. 676, dated 29 October 2016, added the possibility of being detained without access to a lawyer, albeit only for 24 hours, to article 154 of the Code of Criminal Procedure (Law No. 5271), and limitations on confidential contacts between detainees and their counsel were introduced in Law No. 5275 on the execution of penalties and security measures. Consequently, Decree Law No. 684, dated 23 January 2017, removed the ban on lawyers' access to their clients in the first five days of the detention period. The Law on the Fight Against Terrorism (counter-terrorism law)[23] restricts access to a lawyer for suspects detained for terrorist offences for the first 24 hours in detention at the request of a prosecutor and by the decision of a judge, but specifies that the suspect may not be interrogated during that period (art. 10 (b)).

67. On 23 January 2017, Decree Law No. 684 reduced the maximum duration of detention without charge or judicial review from 30 days (as introduced through Decree Law No. 667) to seven days, which can be extended upon request of the prosecutor for another seven days if deemed necessary. While the Special Rapporteur sincerely welcomes this important first step, he urges the Government of Turkey to normalize the situation as soon as possible by further reducing the duration of police custody to a maximum of 24 to 48 hours, as stipulated in the Code of Criminal Procedure.

3. Counter-terrorism law and decree framework

68. The main domestic legal provisions regarding terrorism and terrorist offences are contained in the counter-terrorism law[24] and the relevant articles of the Criminal Code. The definition of "terrorist offender" in article 2 of the counter-terrorism law was amended in 2006 and is rather broad and vague, as is the definition of "terrorism" in article 1. Concerns have been raised that this law may be used for politically motivated prosecutions of political opponents, human rights defenders and journalists, in particular for alleged "membership of a terrorist organization".[25]

69. The Special Rapporteur is particularly concerned by a new law that was published on 14 July 2016 (Law No. 6722),[26] which grants counter-terrorism forces a perceived, albeit overturnable, de facto immunity from prosecution for acts carried out in the course of their operations in the south-east. More specifically, under the new law, which applies retroactively, the executive authorities must give permission before any soldiers or civilians taking part in counter-terrorism operations can be prosecuted for any offences committed while carrying out their duties, thus rendering investigations into allegations of torture or ill-treatment by the security forces involved more difficult, if not impossible.

4. Complaint and investigation procedures

70. In principle, prosecutors can and must investigate all allegations of torture or ill-treatment ex officio, regardless of an individual complaint. All complaints that are received must be followed up by the Public Prosecutor. Complaints may be brought by the victims themselves, or their family or lawyer, by civil society organizations, or by a monitoring mechanism such as the Ombudsman Institution. According to the General Directorate of

[22] See General Assembly resolution 68/156 (para. 27).

[23] Law No. 3713, adopted in 1991 and amended in 1995, 1999, 2003, 2006 and 2010. Available at www.ecoi.net/file_upload/1226_1335519341_turkey-anti-terr-1991-am2010-en.pdf.

[24] Ibid.

[25] United Nations country team submission for the 2015 universal periodic review of Turkey (para. 37).

[26] Available from www.resmigazete.gov.tr/eskiler/2016/07/20160714.htm.

Prisons and Detention Houses, individual complaints are the most important mechanism in place for the investigation of torture and ill-treatment, and a hotline has been put in place for families to lodge complaints.[57] In addition, officials reportedly screen open source material, such as reports by non-governmental organizations and media pieces, for allegations of ill-treatment, which is then treated like an individual complaint.

71. However, throughout his visit, the Special Rapporteur received consistent allegations pointing to a near-complete absence of complaints being submitted, transmitted or investigated by officials. In interactions with inmates, lawyers and civil society organizations, the Special Rapporteur was informed that most victims of torture or other forms of ill-treatment did not file complaints with the authorities for fear of retaliation against them or their families, and due to a deep distrust in the independence of the prosecution and the judiciary and — consequently — in their willingness or ability to adequately investigate and adjudicate claims. Moreover, many of those who had filed formal complaints reported that no follow-up had been undertaken by the prosecution and the judiciary.

72. Since 2012, the Constitutional Court has been able to receive direct complaints from individuals about violations of their fundamental rights and freedoms as guaranteed in the Constitution and the European Convention on Human Rights and its Protocols, provided that no effective remedy had been given by lower courts. Complaints of torture can also be lodged directly with the Constitutional Court if the prosecutor fails to initiate an investigation into torture allegations received.

73. The Special Rapporteur was informed that the Constitutional Court had received approximately 121,000 complaints in total since the introduction of this mechanism, and that it continued to receive approximately 20,000 individual complaints per year. Since the failed coup, the number of complaints had increased significantly, amounting to 69,752 individual petitions in 2016 alone.[58] By the time of the Special Rapporteur's visit, the Constitutional Court had reportedly issued 38 judgements finding a violation of the prohibition of torture (3 in 2014, 10 in 2015, and 25 in 2016).[59]

5. Lack of effective investigations into torture allegations, and impunity

74. The low number of investigations and prosecutions initiated in response to allegations of torture and ill-treatment seemed grossly disproportionate to the alleged frequency of such violations, indicating insufficient determination on the part of the responsible authorities to take such cases forward.

75. The Ankara Chief Public Prosecutor's Office, for example, advised that, from 1 January 2016 to 1 December 2016, only 24 law enforcement officers had come under suspicion of having committed torture, without a single one of those cases leading to an indictment.[60] While about half of those cases were still pending, several of them had been dismissed for lack of grounds for legal action or for lack of jurisdiction. Of seven cases of suspected deliberate injury (not amounting to torture) in the same time period, only one had led to an indictment. Given the large number of allegations and of public reports about the prevalence of torture and other forms of ill-treatment in the immediate aftermath of the failed coup, it is troubling to see that, in one of the areas most affected by the attempted coup, only a handful of allegations appear to have been registered by the Prosecutor's Office. Moreover, while the information available to the Special Rapporteur does not allow for any detailed review of individual cases, it appears disconcerting that, out of 31 suspected cases of torture or deliberate injury by law enforcement officers, only one single case would actually lead to the indictment and prosecution of the alleged perpetrator.

[57] As communicated to the Special Rapporteur in a meeting on 28 November 2016.

[58] Figures provided by the Constitutional Court via the Permanent Mission of Turkey.

[59] Figures as per the Special Rapporteur's meeting with representatives of the Constitutional Court on 28 November 2016.

[60] Statistics received from the Ankara Chief Public Prosecutor's Office, via the Ministry of Foreign Affairs, on 1 December 2016.

76. In a meeting with representatives of the Ministry of the Interior, the Special Rapporteur was informed that only five "serious allegations" had been received regarding torture and ill-treatment, and that investigations had been conducted and disciplinary measures implemented.[11] It remained unclear whether or not any other (i.e. less than "serious") allegations had been received, for which no investigation had been initiated, and whether or not criminal sanctions had been imposed in any of the five cases.

77. The Special Rapporteur welcomes the deliberations on the prohibition of torture in several cases that have been transmitted to him by the Court of Cassation. In particular, he welcomes the verdict of the Court in November 2013 whereby a landmark decision against eleven Turkish officials was upheld in the case of Engin Çeber, who had been tortured to death while in custody in 2008.[12] The Special Rapporteur also welcomes other verdicts of the Court of Cassation, which either overturned lower court judgements that, contrary to the evidence presented, did not find State officials guilty of torture,[13] or which upheld such decisions if compliant with the evidence and the law.[14]

78. However, the Special Rapporteur believes that, in the light of the great number of allegations of torture and ill-treatment having resulted from the present situation in Turkey, failure to investigate and prosecute a significant number of State officials for torture or ill-treatment strongly indicates insufficient determination on the part of the responsible authorities to actually live up to the Government's official policy of zero tolerance on torture.

79. The Special Rapporteur has not been made aware of any cases in which, in accordance with articles 148, 206 and 217 of the Code of Criminal Procedure, evidence obtained under torture has been excluded from subsequent legal proceedings.

80. The Special Rapporteur urges the Government to remind the relevant judicial authorities of their duty to investigate and prosecute all public officials suspected of committing, ordering, condoning or covering up torture or other ill-treatment, including in situations where they knew or ought to have known that torture was about to be, was being, or had been committed.

6. Lack of review of emergency decrees and related human rights violations

81. The decrees with the force of law (*Kanun hükmünde kararnameler*) that were introduced following the failed coup have imposed sweeping security measures and have deviated significantly from the usual procedural and administrative guarantees. Article 9 of the first decree, No. KHK/667, for example, states that "legal, administrative, financial and criminal liabilities shall not arise in respect of persons who have adopted decisions and fulfil their duties within the scope of this Decree Law", and article 10 adds that "stay of execution cannot be ordered in cases brought as a result of the decisions taken and acts performed within the scope of this Decree Law". By means of article 37 of the subsequent decree law, No. KHK/668, this lack of liability is extended to all decisions and measures adopted "with a view to suppressing the coup attempt and terrorist actions performed on 15 July 2016".

82. In accordance with the above-mentioned provisions and with article 148 (1) of the Constitution, the Constitutional Court decided in a landmark ruling on 9 August 2016 that it was not competent to review the emergency decrees, thereby effectively depriving individuals who had suffered violations of their rights and freedoms under the decrees of any remedy.

83. The Commission for Examination of the State of Emergency Procedures was created on 23 January 2017 by Decree Law No. KHK/685 to review applications relating to measures taken within the scope of the decree laws, and in particular applications relating

[11] The meeting took place on 28 November 2016.
[12] Decision No. 2013/26551 of the Court of Cassation in case No. 2013/13411.
[13] Decision No. 2014/1575 of the Court of Cassation in case No. 2013/1182, and decision No. 2015/12301 of the Court of Cassation in case No. 2014/35857.
[14] Decision No. 2014/5503 of the Court of Cassation in case No. 2013/10602.

to dismissals and suspensions from the civil service as well as to closure of organizations. Since the Special Rapporteur's visit, the Constitutional Court has reviewed a number of cases and has concluded that it is not competent to receive the complaints because legal remedies have not been exhausted. The Constitutional Court has therefore referred the thousands of cases related to measures taken under the emergency decree laws to the newly established Commission.[11]

64. While the Special Rapporteur welcomes, in principle, any mechanism designed to review measures taken under the decrees, the composition of the Commission may raise legitimate questions regarding its independence and impartiality, given that the majority of its members will be appointed by the Government.[12] The Special Rapporteur notes that allegations of torture and ill-treatment could not be reviewed by the Commission. Concerns have also been raised that the Commission may be considered as an additional domestic remedy that has to be exhausted before individuals or institutions can have their cases reviewed by the Constitutional Court (and possibly later by the European Court of Human Rights).

65. Lastly, the Special Rapporteur is troubled by a document that appears to have been issued by the Prosecutor's Office in Trabzon on 5 January 2017, stating that there were no grounds to investigate and prosecute a torture complaint resulting from measures taken under the state of emergency decrees, due to the immunity effectively given to State officials under those decrees. While the Special Rapporteur was unable to verify the authenticity of that document and, therefore, cannot prejudge its accuracy, the alleged content of the decision would appear to be consistent with the situation observed by him of perceived de facto impunity for torture and other forms of ill-treatment at the hands of State officials.

F. Lack of monitoring of detention locations

66. In Turkey, several bodies, both international and national, are allowed or even mandated to inspect locations where people are deprived of their liberty.

67. At the international and regional level, as Turkey is a signatory to the European Convention on Human Rights and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, monitoring visits may be conducted by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, as well as by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. The Special Rapporteur welcomes the visit to Turkey by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in September 2016, and commends the excellent cooperation shown by the Turkish authorities during his own visit to the country.

68. At the domestic level, public prosecutors may inspect detention centres, under article 92 of the Code of Criminal Procedure; police stations and holding cells are subject to inspections by governors, mayors and civil inspectors; the Human Rights Inquiry Committee of Parliament may visit penal institutions within the scope of parliamentary audit; and the Monitoring Boards for Prisons and Detention Centres[13] may also conduct visits. In addition, the Ombudsman Institution[14] and the newly established Human Rights and Equality Institution of Turkey may conduct on-site monitoring of detention locations in Turkey, and may receive complaints from detention houses.

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[11] See www.anayasa.gov.tr/en/olaganustu-donemler-kararlari/ (last visited 6 June).

[12] The seven-member Commission will be appointed by the Prime Minister (three members), the Minister of Justice (one member), the Minister of the Interior (one member) and the High Council of Judges and Prosecutors (two members).

[13] See CAT/C/TUR/4, paras. 242–244.

[14] Entered into force on 29 June 2012, following the constitutional amendments of 2010.

89. The Special Rapporteur is concerned, however, that the numerous national bodies that are formally mandated to monitor detention locations do not appear to function properly in practice, and thereby fail to assume their crucial role in contributing to the prevention of torture and ill-treatment throughout Turkey.

90. For example, the Human Rights and Equality Institution of Turkey, established in April 2016 to replace the National Human Rights Institution of Turkey,[39] has been taking up its duties with considerable delay. Apart from monitoring equality and human rights in general, the Human Rights and Equality Institution of Turkey is the designated organization for the national preventive mechanism[40] as detailed in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, at the time of the visit, no commissioners had been appointed to the institution, which, despite having several working-level staff, remained unable to assume its decisive preventive role of carrying out regular, independent and objective inspections of all places of detention in Turkey.

91. Other monitoring mechanisms were experiencing a change of personnel at the time of the Special Rapporteur's visit, with the former Ombudsman having been relieved of his duties. The Special Rapporteur welcomes the appointment of a new Ombudsman by Parliament in November 2016. The prison monitoring boards, which had been criticized for their lack of impartiality, had been dismantled by decree after the July 2016 coup, and at the time of the visit had not yet been reconstituted. Moreover, civil society organizations reportedly were not allowed to monitor detention centres and other places of deprivation of liberty.

8. Forensic medical examinations and documentation of torture

92. Professional forensic examinations and documentation about allegations of torture and ill-treatment as well as about deaths in custody are a crucial component in any effective investigation and in the prosecution of such allegations. The Istanbul Protocol (the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment) and the Minnesota Protocol (the Model Protocol for a Legal Investigation of Extralegal, Arbitrary and Summary Executions) provide fundamental tools for guiding such documentation and investigations.

93. The Special Rapporteur and his accompanying forensic expert observed that general medical examinations appeared to be routinely performed upon arrest and after arrival at detention centres. Examinations were reportedly conducted by medical personnel without any specific training in documenting signs of physical and psychological abuse, and did not involve any psychological assessments, thus entailing an increased risk of deficient descriptions, documentation, and interpretations of traumatic injuries.

94. The forensic medical examination by specialists of inmates who show signs of physical or psychological trauma, with photographs, in accordance with the Istanbul Protocol, does not appear to be a routine procedure. Occasionally, such examinations have allegedly been delayed until the visible signs of the trauma have disappeared.

95. In cases of death in custody, autopsies were reportedly systematically performed, but it was not possible to assess whether or not they were carried out in accordance with international minimum standards, and in particular, the Minnesota Protocol. Numerous interlocutors mentioned that, according to official records, a number of detainees suspected of being affiliated with the Gülenist movement had committed suicide in custody, although there was no confirmation of this cause of death by independent autopsies.

96. Since the failed coup of July 2016, several forensic experts have been arrested and detained, including the director of the Council of Forensic Medicine, and pursuant to Decree Law No. 679 of 6 January 2017, numerous forensic specialists and other Ministry of Justice personnel have been dismissed or suspended from their positions. According to allegations received by the Special Rapporteur and his forensic expert, official forensic

[39] Established in Law No. 6332 of 21 June 2012.

[40] By Cabinet decree dated 9 December 2013.

services have been under pressure from authorities not to properly document abuse, and forensic examinations have either not been conducted in line with the Istanbul Protocol or have not been conducted at all. For example, forensic experts would allegedly be asked to assess a roomful of detainees in the space of a few minutes, without being able to conduct individual examinations and confidential interviews. Requests made by detainees and their families for examinations by independent physicians have allegedly been denied.

97. The Special Rapporteur is very concerned about the alleged interference of the authorities with the independence of the forensic services and with the proper implementation of their mandate, which makes the proper documentation and effective investigation of torture and ill-treatment difficult if not impossible and contributes further to impunity for abuse.

IV. Conclusions and recommendations

A. Conclusions

98. **The Special Rapporteur expresses his sincere appreciation to the Government of Turkey for the excellent cooperation afforded during his visit, and for the efforts of the representatives of the Ministry of Foreign Affairs to facilitate and organize meaningful official meetings.**

99. **The Special Rapporteur also thanks the United Nations Resident Coordinator in Turkey and his Office for the support provided before and throughout his visit.**

100. **The Special Rapporteur fully acknowledges the extreme volatility of the security situation prevalent in Turkey during the time of his visit, and the right and duty of the Government to take security measures to protect its citizens from acts of violence and political overthrow. However, just as much as there can be no justification for acts of terrorism and violent overthrow, there can also be no justification, under any circumstances, for acts of torture and other cruel, inhuman or degrading treatment or punishment, or for any form of impunity for such acts.**

101. **To the best of his personal judgment and conviction, based on numerous credible and consistent allegations and other information received from various independent sources, and having consulted extensively with the Turkish authorities, the Special Rapporteur has come to the following main conclusions regarding the prevalence of torture and other cruel, inhuman or degrading treatment or punishment in Turkey at the time of his visit and during the months preceding it:**

(a) **In the immediate aftermath of the failed coup of 15 July 2016, torture and other forms of ill-treatment were widespread, particularly at the time of arrest and of preliminary detention in police or gendarmerie lock-ups or in unofficial detention locations. This initial phase, marked by arbitrariness, and most of the ill-treatment, ceased after approximately two weeks, when most detainees were transferred to regular places of detention;**

(b) **In relation to the violence in the south-east, torture and ill-treatment continues to be widespread in the initial phase of custody and interrogation and is aimed primarily at coercing suspects to confess or to denounce other suspects of terrorist offences. As a result, numerous arrests are made on the basis of unreliable accusations or denunciations made under torture;**

(c) **The small number of investigations reported by the authorities, whether ex officio or upon complaint, is in no way proportionate to the persistent allegations of torture and other ill-treatment received by the Special Rapporteur. The majority of victims reported that they had not filed formal complaints for fear of retaliation against them and their families, and because of their distrust in the independence of the prosecution and the judiciary and, consequently, in the willingness or ability of the prosecution and the judiciary to adequately investigate and adjudicate their claims.**

When formal complaints had been filed, there had allegedly been no follow-up by the responsible authorities;

(d) The sweeping security measures taken by the Government in response to the failed coup of 15 July 2016 have resulted in a general sense of intimidation and distrust in many segments of the population, preventing not only inmates and their families, but also civil society, lawyers, doctors and many State officials from initiating or participating in any procedure that may be perceived — rightly or wrongly — as opposing or criticizing the Government, including, most notably, the documentation and investigation of alleged acts of torture and other ill-treatment;

(e) Recently passed legislation and statutory decrees, some of which have been partly repealed in the meantime, created an environment conducive to torture and other forms of ill-treatment, most notably:

(i) The extension of the period of custody without judicial review to 30 days;

(ii) The extension of the period without access to a lawyer to five days;

(iii) The denial of confidential exchange between inmates suspected of terrorist crimes and their lawyers;

(iv) The introduction of immunity from criminal prosecution — albeit overturnable — for counter-terrorist forces operating in the south-east.

(f) The suspension or dismissal of thousands of judges, prosecutors and other officials has caused severe delays in the processing of individual judicial and administrative cases and complaints;

(g) Due to dismissals and to delays in administrative appointment processes, the Human Rights and Equality Institution of Turkey, which also exercises the function of the national preventive mechanism as detailed in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, currently cannot carry out regular, independent and objective inspections of all places of detention in Turkey;

(h) Except for police holding cells, which are clearly inadequate for holding inmates for more than 24 to 48 hours, conditions of detention are generally satisfactory or, at least, acceptable in the circumstances. The most important source of shortcomings was the prevalent overcrowding (ranging from 125 to 200 per cent of the capacity), which negatively affected access to work, training, recreation, medical care and visits and contact with family members and lawyers, all of which are important for the well-being and rehabilitation of inmates.

B. Recommendations

102. The Special Rapporteur firmly believes that there is no better deterrent to torture and other cruel, inhuman or degrading treatment or punishment than the unambiguous expression and determined implementation of a strong national will to prevent, investigate, prosecute and punish such abuse. The Turkish authorities have the ability to prevent torture; they have proven this over the past decade and they consistently and unequivocally expressed their continued commitment in that respect throughout the visit. It is in a spirit of respect and support of the Government's declared policy of zero tolerance for torture, therefore, that the Special Rapporteur offers the following recommendations to the Government of Turkey:

103. First and foremost, on the policy level, the Special Rapporteur appeals to the Government to publicly reinforce its zero tolerance policy on torture, to take all legislative and administrative measures to implement that policy, and in particular to unequivocally make it clear to State officials at all levels that they are expected and, indeed, obliged to report and investigate all allegations of torture and to bring perpetrators to justice.

104. **Regarding the national legal framework, the Special Rapporteur recommends that the Government:**

(a) **Consider terminating the declared state of emergency, and ending its derogations from the International Covenant on Civil and Political Rights and the European Convention on Human Rights, as soon as practically possible;**

(b) **Ensure that provisions introduced under the decrees (*kanun hükmünde kararname*) during the state of emergency are not unduly perpetuated or entered into regular legislation;**

(c) **Amend the Law on the Fight Against Terrorism so as to ensure that it may not be employed for politically motivated prosecution of peaceful dissent and of criticism of the Government;**

(d) **Reduce the maximum duration of police/gendarmerie custody to 24 to 48 hours, as stipulated in the Code of Criminal Procedure, including for terrorism-related offences.**

105. **With a view to ensuring conditions of detention in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the Special Rapporteur recommends that the Government:**

(a) **Urgently adopt measures to reduce overcrowding, including through the more extensive use of alternatives to incarceration (such as bail and electronic surveillance for pretrial defendants, and probation and early release for convicts), and to the extent possible and appropriate, by reviewing current sentencing policies and providing for alternative, non-custodial penalties, in particular for lesser offences, and by providing the judicial authorities with the resources required to accelerate proceedings;**

(b) **Ensure adequate access to work, training, education and recreation for all offenders, including terrorism-related convicts, with a view to establishing a penal system aimed at rehabilitating and reintegrating offenders and ensuring their physical and mental health;**

(c) **Ensure the separation of pretrial inmates from convicts;**

(d) **Ensure the prioritization of alternatives to detention for all juvenile offenders and, in exceptional circumstances where detention is necessary, ensure their detention in separate rehabilitation facilities that meet their specific needs as children, and ensure their continued schooling and recreational activities;**

(e) **Ensure the daily presence, in cooperation with the public health services, of a sufficient number of qualified medical health staff, including psychiatric, psychological and dental specialists, to perform the medical examination on detainees' entry to the institution, to carry out regular check-ups, including routine analytical blood and urine tests and thorax radiology (by mobile units), and to provide prompt medical assistance to all persons deprived of their liberty despite temporary overcrowding;**

(f) **Ensure that general prison staff receive adequate training on how to deal with particularly vulnerable categories of detainees and how to identify first signs of potential mental illness;**

(g) **Ensure that the medical registration forms currently used are adapted so that they meet the recommendations of the Istanbul Protocol;**

(h) **Ensure the adoption and implementation of special health programmes to address situations that occur frequently in detention facilities, such as the spread of contagious diseases, or inmates with a drug addiction or with HIV/AIDS.**

106. **Regarding the prevention of torture and ill-treatment, and safeguards, the Special Rapporteur recommends that the Government:**

(a) **Repeal provisions of the *kanun hükmünde kararname* that may increase the risk of persons being subjected to torture and other cruel, inhuman or degrading treatment or punishment;**

(b) **Ensure prompt access to legal counsel of the suspect's choosing from the moment of apprehension and through all stages of the criminal proceedings, including for detainees suspected of terrorism-related offences or arrested under the state of emergency and the *kanun hükmünde kararname*;**

(c) **Ensure the confidentiality of interactions between lawyers and their clients, including for individuals suspected of terrorism-related offences or arrested under the state of emergency and the *kanun hükmünde kararname*;**

(d) **Terminate all incommunicado detention and detention in unofficial detention locations, including during times of emergency;**

(e) **Ensure that statements or confessions taken from persons deprived of their liberty, other than those made in the presence of a judge and with the assistance of legal counsel, have no probative value in proceedings against that person; and that confessions and testimonies that may have been obtained through torture or other ill-treatment are not admitted as evidence in any proceedings;**

(f) **Improve the forensic medical capacity and infrastructure within places of detention, and ensure the full independence of all forensic medical staff, their unhindered access to all detainees on the basis solely of the detainees' individual medical needs, and their ability to examine alleged victims of torture and ill-treatment freely and without supervision;**

(g) **Ensure adequate training of all health professionals involved with detainees, including specifically on the forensic assessment and documentation of torture and other ill-treatment, in accordance with the Istanbul and Minnesota Protocols;**

(h) **Ensure that photographic documentation of trauma injuries becomes an obligatory routine practice and provide all medical services with adequate equipment for this purpose;**

(i) **Ensure and facilitate regular, effective and independent monitoring of all institutions or locations where individuals may be deprived of their liberty, by national and local bodies such the national preventive mechanism, by international and regional bodies and by specialized civil society organizations;**

(j) **Ensure the full institutional, political and financial independence, impartiality and professionalism of the national preventive mechanism, and the compliance of the national human rights institution with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

107. **Regarding prompt, thorough and impartial investigations, the Special Rapporteur recommends that the executive and judicial authorities:**

(a) **Ensure prompt, thorough and impartial investigation and prosecution of all alleged offences involving torture or other cruel, inhuman or degrading treatment or punishment, including those reported to have been committed in the aftermath of the failed coup of July 2016 and in the context of the ongoing violence in the south-east of the country;**

(b) **Ensure that investigations are launched ex officio, without any need for formal complaints by victims, prosecutors or investigative magistrates, whenever there are reasonable grounds to suspect torture or ill-treatment;**

(c) **Ensure that perpetrators of torture or other cruel, inhuman or degrading treatment or punishment are held criminally responsible and that adequate penal sanctions and disciplinary measures are imposed on convicted perpetrators.**

108. **Regarding sexual and gender-based abuse, the Special Rapporteur recommends that the Government:**

(a) **Ensure that all detainees remain under the direct supervision of guards and law enforcement officers of the same gender at all times, including during transfers;**

(b) **Ensure that no guards, law enforcement officers or other persons of the opposite gender, except for close family members or the required medical personnel, are present during body searches, strip searches and any other physical examinations;**

(c) **Ensure that medical examinations and consultations of all detainees are conducted in full confidence, without the supervision of guards and law enforcement officers;**

(d) **Include the examination and investigation of sexual and gender-based violence into the standard examination of torture and cruel, inhuman or degrading treatment or punishment in accordance with the criteria of the Istanbul Protocol.**

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Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Turkey: comments by the State*

* Reproduced as received.

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1. The Government of the Republic of Turkey expresses its appreciation of the role played by mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on examining questions relevant to torture. Turkey takes note of the contributions of the Rapporteur's work in fulfilling his mission within the scope of his mandate to date.

2. After studying the advanced unedited version of the Report which was prepared by the Special Rapporteur's Office, following his mission to Turkey from 27 November through 2 December 2016, the Government of the Republic of Turkey would like to submit its comments and observations in the following paragraphs.

Terrorist Organization FETÖ/PDY

3. To start with, the Government wishes to remind that FETÖ/PDY (Fetullahist Terrorist Organization/Parallel State Structure) is an armed terrorist organization established by Fetullah Gülen which aims to suppress, debilitate and direct all the Constitutional institutions, to overthrow the Government of the Republic of Turkey and to establish an oppressive and totalitarian system through resorting to force, violence, threat, blackmailing and other unlawful means.

4. On the night of 15 July, upon the instruction of the founder and leader of the FETÖ/PDY, Fetullah Gülen, and in line with the plan approved by him, "a group of terrorists in uniforms" within the Turkish Armed Forces attempted an armed coup against the democracy for the purpose of overthrowing the elected president, Parliament and Government together with the Constitutional order.

5. The Presidential Compound, the hotel where Mr. President was staying at, the Turkish Grand National Assembly (TGNA), the Police Special Operations Centre and the security units, the premises of the National Intelligence Organization and various military units were attacked with bombs and arms. The Bosphorus bridges connecting Asia and Europe were closed to traffic by the terrorists in uniform using tanks and heavy artillery.

6. The Turkish Parliament building, reflecting the public's will and the heart of the democracy, was bombed for the first time in the history of the Republic of Turkey. Fighter jets carried out bomb attacks in the course of the extraordinary meeting of the Plenary Session against the coup attempt. During the attack, Parliament officials, some civilians and many police officers were injured, and extensive damage was caused to the Parliament building.

7. On the night of 15 July, tanks ran over civilians and some of them were killed and injured as a result of being trapped under the tanks. Fighter jets made low altitude flights over the cities by breaking through the sound barrier and in a manner which would lead to fear and panic in the public. The TGNA and people were shot randomly by the coup plotters, snipers directly targeted people from strategic points, the crowd was bombed and shot from these fighter jets. In brief, the civilians, who defended the democratic regime at the cost of their lives, were massacred by coup plotters. In the course of the coup attempt, 250 persons were killed and more than 2000 were injured.

8. However, to judge the deeds of this organization with only what transpired on July 15th would be a mistake. To understand why FETÖ/PDY is recognized as a terrorist organization one needs also to take into consideration the enormity of their previous actions and the resulting trauma that the Turkish nation has experienced. The so-called educational services of this organization was in fact the first step of an infiltration campaign where kids were put through a heavy hand in indoctrination. They were provided with cheat sheets for entrance exams for prominent schools and later for government jobs. They were turned into

unquestioning disciples of Fetullah Gülen. They were ordered to stay hidden and to infiltrate state institutions. To achieve their main goal of capturing the state, the members of FETÖ eschewed all legal and ethical norms. They bribed, blackmailed, fabricated documents, tagged and wiretapped people and orchestrated sham trials against anybody who could stand on their way. Laundering enormous sums of money, arranging illegal transfers of funds, as well as other financial crimes became business as usual.

9. Accordingly, the references to the said terrorist organization in the Report as "Gülenist movement" (Paragraph 24, Paragraph 59 and Paragraph 95) should be corrected as FETÖ/PDY (Fetullahist Terrorist Organization/Parallel State Structure). For perusal and reference, an Information Note on the said terrorist organization is also attached to this Addendum.

Terrorist Organization PKK:

10. The Government further would like to underline that PKK is a vicious terrorist organization, which is included in the lists of terrorist entities of the EU as well as USA and many other countries in the democratic world. For decades, Turkey has been countering PKK terrorism which claimed thousands of lives of innocent people and violated the fundamental rights and freedoms of people; first and foremost, the right to life. Accordingly, the fact that PKK is a terrorist organization should have been duly alluded and taken into account in the Report **(Paragraph 30)**.

General Remarks on the Report:

11. As acknowledged in the Report, Turkey's institutions, constitution and legislation provide sufficient institutional and legislative safeguards against torture and ill-treatment. Respect to human dignity constitutes one of the foundations of the Turkish democracy.

12. While emphasizing the serious nature of the security challenges that Turkey faces in recent years, the Report cites unsubstantiated, generic and vague claims. Many comments and generic conclusions cited in the Report are built on the claims of a limited number of persons interviewed and flow of information from unknown sources whose reliability could well-be questioned and some of them are apparently members of terrorist organizations.

13. The Government wishes to underline that, although the Rapporteur was given access to all locations where people are deprived of liberty throughout Turkey and was able to conduct confidential interviews with detainees of his choosing, no physical signs were reported consistent with allegations of ill-treatment cited in the Report.

14. Certain vague allegations, unsubstantiated claims and anonymous statements cited in the Report remain unaddressed in this Addendum only due to lack of their clarity and it should not in any way be commented as that such allegations are accepted.

15. The Government further would like to inform that the Recommendations in the Report will be duly examined by the relevant Turkish authorities and those Recommendations based on objective and impartial assessments will be taken into consideration and implemented where necessary.

16. The Government would also like to recall that Turkey is party to both the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1988 and to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment since 1989. Turkey also has a constructive cooperation with their respective international monitoring organs namely UN Committee Against Torture and European Committee For the Prevention of Torture.

17. Turkey is also party to UN Optional Protocol to the Convention Against Torture (OPCAT) and designated Human Rights and Equality Institution as the National Prevention Mechanism, accordingly since 2012.

18. Therefore, having been party to all relevant international conventions for the prevention of torture and ill treatment; the Government reiterates its full commitment to the "policy of zero tolerance against torture" and its determination for the total elimination of torture and other cruel, inhuman and degrading treatment.

19. Certain comments regarding the advanced unedited version of the Report are submitted below under the relevant headlines.

Introduction

20. The Report puts forward that *"During his visit, the Rapporteur met with high level officials of the Ministries of Foreign Affairs, Justice and Interior (including the Turkish National Police, General Command of Gendarmerie) in Ankara…… He also met with representatives of United Nations agencies and the diplomatic community, with civil society organisations, activists, lawyers and doctors, as well as with victims of torture."*

21. The term in the latter sentence, "victims of torture" should be corrected as "those who claimed to have been victims of torture".

Assessment of the situation- General observations

22. Regarding **Paragraph 23,** the Government wishes to inform that the term "conflict in the South-East" is incorrect and misleading. The violence erupted in south-east Turkey after July 2015 can be described as intensified terrorist attacks by PKK. Accordingly, the Government requests that the unacceptable term "conflict" in **Paragraph 23** and in other **paragraphs (5, 29** and **40)** should be deleted.

23. Regarding the claims in **Paragraph 23,** the Government would like to recall that Turkey, as one of the main pillars of its zero tolerance policy against torture, maintains its resolute commitment to combat impunity for torture and ill-treatment. To this end, efforts have been concentrated in (i) further strengthening the national legislation to provide necessary safeguards to combat impunity and (ii) rendering the law-enforcement complaint system more efficient and swift while enhancing its transparency and credibility.

(i) Firstly, it is important to indicate that Turkish national legislation includes the necessary safeguards against impunity for torture and other forms of ill-treatment. This is also acknowledged in the Report.

24. Even during the State of Emergency, Turkey remains adhered to its commitment to strengthen its legislation to combat impunity of law-enforcement officials and to prevent instances of torture and ill-treatment. As a latest sign of this commitment, with the Decree Law No : 682 on General Disciplinary Provisions as Regards the Law Enforcement Officers which entered into force on 23 January 2017, a new provision has been put into effect which provides that law enforcement officers who commit torture shall be imposed the disciplinary penalty of dismissal from public service.

(ii) With a view to combating impunity through rendering law-enforcement complaint system more efficient and swift as well as enhancing its transparency and credibility, the Law No : 6713 on the establishment of Law Enforcement Oversight Commission was enacted and entered into force on 20 May 2016.

25. The Law is another reform step taken in line with Turkey's zero tolerance policy against torture. The Law aims at ensuring swift and efficient investigation and conclusion

of complaints as to law enforcement officers. It foresees the establishment of a Law Enforcement Oversight Commission that provides a more effective complaint system and also envisages the establishment of a central registration system that monitors the processing of complaints about law enforcement officers as well as the sanctions imposed as a result of these actions. The central registry system will enter into force following the adoption of regulatory framework.

26. Within the Directorate General of Prisons and Detention Houses of the Ministry of Justice (MoJ) there is a complaint Bureau where personal petitions or any complaints received by BIMER (Communication Centre of the Prime Ministry), CIMER (Communications Centre of the Presidency), and the Directorate General Prisons and Detention Houses are investigated in detail and processed as required.

27. Detainees or convicts, their relatives and associations can also file complaints to the Human Rights Bureau within the Directorate General for Prisons and Detention Houses of the MoJ. Allegations of violations of human rights are investigated in detail and the applicants are informed about the developments.

28. In addition, in October 2016, to facilitate the filing and swift processing of torture and ill treatment complaints, upon the instruction of the Minister of Justice, a specific unit has been established to deal with all allegations of ill-treatment at the penitentiary institutions and to inform the relevant persons of the outcomes.

29. In this unit, allegations and comments appeared in the media, reported by the international organizations and monitoring mechanisms recognised by Turkey are immediately taken into consideration.

30. Furthermore, a citizen's portal has been created. The complaints received via this portal are assessed carefully.

31. As to General Observations **(Paragraph 24)**, the Government wishes to inform that the allegation regarding "*extensive intervention with the human rights ...*" is unacceptable as all judicial proceedings against the suspected plotters of the 15th July terrorist coup attempt and members of FETÖ/PDY are initiated as per decisions of the members of independent judiciary.

32. In **Paragraphs 29 and 30**, the PKK and the so-called "Islamic State of Iraq and Al-Sham (ISIS)" are not indicated as terrorist organizations. Also, the term "Kurdish insurgency" is a misrepresentation of the reality. Turkish nation is not a juxtaposition of communities or groups. It is composed of citizens, who are equal before the law irrespective of their origins in terms of language, race, colour, ethnicity, religion or any other such particularity, and whose fundamental rights and freedoms are enjoyed and exercised individually in accordance with the relevant law. While Turkey is countering PKK terrorism, citizens of Kurdish origin are integral part of the nation. The violent attacks perpetrated by terrorist organization PKK cannot be described as "Kurdish insurgency".

Torture and ill treatment

33. The Government wishes to express that allegations of torture and ill treatment raised in connection with the terrorist coup attempt of 15th July 2016, as well as southeast Turkey, under this section are unacceptable.

34. It seems that most of the interviewees are apparently members of terrorist organizations and the Report has given full credit to the statements of suspects of offences of overthrowing the Government of the Republic of Turkey, establishing an oppressive and totalitarian system through use of force, violence, threat, blackmailing and other unlawful means.

35. Furthermore, it is not clear in the Report that whether such allegations were brought before justice or any local remedies are exhausted.

Solitary confinement

36. As to unconfirmed claim in **Paragraph 32** that "*... a great number of persons had been held in prolonged solitary confinement*", the Government wishes to inform that there is no practice as "solitary confinement" in Turkish penitentiary system. In certain cases, a disciplinary measure involving a stay in 1 or 3 persons rooms is applied in line with Law No : 5275 on the Execution of Sentences and Security Measures. However, those who are imposed such temporary disciplinary measures are entitled to have the same rights with other inmates, namely joining recreational activities as well as having fresh air, watching television, talking over the phone, meeting with visitors or lawyers, reading books and receiving letters or fax messages.

Strip searches and invasive body searches

37. In connection with the concerns raised in **Paragraph 33 and 34** under the title "*Strip searches and invasive body searches*", the Government would like to underline that searching of all body and belongings of the detainees and convicts transferred to the Penitentiary Institutions are carried out in accordance with the provisions stipulated in Article 67 of the "Regulation on the Administration of the Penitentiary Institutions and the Execution of the Sentences and Security Measures".

38. In case that there are reasonable and serious indications regarding the fact that prisoners and detainees carry forbidden items and belongings on them or in their body cavities and in case that the highest supervisor of the institution deems it necessary, searching is conducted in accordance with Article 36, titled "Searching" of the Law No : 5275 and the provisions stipulated in Paragraphs 2 and 3 of Article 46 of the Regulation. By this way, the detainees and convicts coming to the institution are prevented from bringing in drugs and hazardous substances in the institution and searching is made with the strict observance of the principle of respect to human dignity.

39. Necessary regulations including the issues pointed out in the **Paragraph 34** already exist in the legislation in detail and stipulated in the Regulation on the Administration of the Penitentiary Institutions and the Execution of the Sentences and Security Measures.

40. Furthermore, the personnel in the Penitentiary Institutions are regularly informed on the current rules and legislation in force. Allegations of ill treatment and abuse are duly investigated by the Chief Public Prosecutor Offices.

Overcrowding

41. Regarding the concerns raised in connection with "overcrowding in penitentiaries" (**Paragraph 39**), the Government would like to inform that the minimum standards for prison establishments provided in the recommendations of the Committee of Ministers of the Council of Europe are followed when accommodating detainees and convicts in prison establishments.

42. Due to the population growth and increase in the number of detainees and convicts accordingly, new penitentiary institutions are needed in order to solve the capacity problem of the penitentiary institutions. There might have also been occasional temporary overcrowding in prison establishments in some cities when an unforeseeable rise occurred in the number of detentions, as it was seen in the immediate aftermath of the terrorist coup attempt of the 15 July 2016. However, such problems are addressed in a short period of time with the construction of new establishments and transfers to other establishments.

Furthermore, where legally permissible, "judicial control decisions" which is an alternative measure, are applied.

43. With the Decree Law No: 674 dated 1 September 2016 on the Measures Taken under the State of Emergency, construction work for new prisons have been accelerated. With the said Decree Law, it is provided that in case of a need, the construction tender for new prison establishments can be conducted without the fulfilment of the requirements foreseen in the investment program. It is planned to construct 228 new prison establishments until 2021. Among them, 106 are in construction stage, 51 are in the tender phase, 59 are in the project phase and 12 are in the planning phase. The planned capacity of these establishments is 333,734.

44. In order to eliminate the problem of overcrowding permanently, the relevant authorities continuously work on construction and for the improvement of physical conditions of prison establishments.

45. Furthermore, with a view to increasing the effectiveness of conditional release regime which will contribute to reducing overcrowding, a project for "Improving Conditional Release to Strengthen the Regime for Execution of Penal Sentences and Prevent Re-Commission of Offences" will start at the end of 2017 for 36 months.

Cases of conditions of detention

46. Regarding the claims cited in **Paragraph 41** in connection with "inmates' visits and phone calls with family members and lawyers", the Government would like to inform that the visits for the convicts and detainees in penitentiary institutions are realized within the framework of Articles 83, 85 and 86 of The Law No: 5275 on the Execution of Penalties and Security Measures and the provisions of the Regulation on the Visitation of Convicts and Detainees.

47. Moreover, free visitations are allowed in accordance with the following provision included in Subparagraph (c) of Paragraph 1 of Article 5 of the Regulation on the Visitation of Convicts and Detainees which stipulates that "Taking into consideration the capacity, security and order of the institution, convicts and detainees sentenced or detained on the grounds of the crimes defined in Section 4, 5, 6, 7 of Part 4 of Second Volume of Turkish Criminal Code No. 5237 and the crimes included in the scope of Anti-terror Law No : 3713, free visitations are allowed within every two months with the decision of administrative and investigative board".

48. On the other hand, as per the Decree Law No: 667 dated 23.07.2017, on the Measures Taken under the State of Emergency, *"Remand detainees may be visited merely by their spouses, up to second degree blood or consanguinity relatives and first degree relatives by marriage, as well as legal guardians or trustees, provided the relationship is documented. Powers of the Ministry of Justice and Public Prosecution shall be reserved. Remand detainees shall exercise their right to communication by phone once every fifteen days, limited to the persons listed in this sub-paragraph for a maximum of ten minutes."*

49. The interview dates and hours of the of detainees with their attorneys shall be limited in accordance with Subparagraph (d) of Article 6 of the Decree Law No: 667.

50. The detainees and convicts in the penitentiary institutions benefit from sportive and cultural activities taking into account security considerations as well as issues such as physical structure and capacity of the institution and within the framework of the program prepared by the administration of the institution.

51. The convicts and detainees in penitentiary institutions are encouraged to attend courses in fields offered such as painting, music, theatre in order to minimize the negative physical and psychological effects of their situation while serving their sentences.

52. Moreover, it is allowed for convicts and detainees, held in closed and open penitentiary institutions, to continue their education through non-formal education activities. Detainees and convicts in open penitentiary institutions can also have formal education.

53. Regarding the claims in **Paragraph 42** regarding "lack of schooling and insufficient access to recreational activities for juvenile pre-trial detainees" as well as "adult inmates not allowed to work", the Government would like to inform that the juveniles who have never received formal education or dropped out of education are evaluated by the teachers working for educational services in penitentiary institutions and all proceedings for the education of these juveniles are carried out by the said services.

54. Within this framework, while the juveniles held in education houses for minors benefit from formal and non-formal education, juveniles who are held in juvenile sections of closed penitentiary institutions and in the institutions for adults benefit from non-formal education. Moreover, 1st and 2nd Level Literacy Courses are delivered in all penitentiary institutions. The juveniles who are held in penitentiary institutions for terror-related crimes also benefit from formal, non-formal education and 1st Level Literacy courses.

55. With a view to securing full rehabilitation of juvenile offenders in penitentiary institutions, of those who have never attended school or drop-outs are evaluated by the educational service to continue to their education. As per their needs they are offered literacy courses or formal education if they are suitable in terms of age and educational level or to distance learning. Moreover, they may take exams by Student Selection and Placement Center and the Ministry of National Education within the framework of non-formal education. Social and cultural activities and studies for juveniles (conferences and seminars, theatre plays, concerts, movies, painting, comics, folk dances, music, handicrafts, exhibitions, quiz shows, debates, chess-draught etc. and celebrations of important days and weeks) are also carried out .

56. In all institutions including at high security penitentiary institutions, within their capacities, new courses are offered to ensure that inmates would have a profession after serving their sentences. It is aimed that inmates become equipped with suitable knowledge, skills and competencies in a dynamic manner in accordance with contemporary needs; encouraged for entrepreneurship, team work, decision-making and problem-solving and their adaptation to the changing social and economic conditions is ensured.

57. As per the below-mentioned provisions in Article 29 of The Law on the Execution of Penalties and Security Measures on "Employment of convicts" and Article 96 of the Regulation on the Administration of Penitentiary Institutions and on the Execution of Penalties and Security Measures;

- Convicts who do not have an occupation and who are determined by the institution doctor to be mentally and physically healthy and convicts who have an occupation and who are willing to work may be employed in workshops in return for such wages as shall be fixed according to the means of the institution.
- The purpose of such employment is to ensure that convicts learn an art or trade which will enable them to maintain themselves after release, and to develop or strengthen their motivation to work and produce. In the employment of convicts, their abilities, skills, aptitudes, and mental and physical conditions will be taken into account.
- The employment of minor convicts shall only be in the field of vocational training. Minors and juvenile convicts attending education institutions or formal education may not be employed in workshops during the teaching year.

- Their employment shall be governed by the provisions of Law No: 3308 of 5 June 1986 on Vocational Training in so far as they do not contradict the provisions of this Law.

58. In high security closed penitentiary institutions inmates' requests to work at the workshops are submitted to the administration and evaluated accordingly.

59. In connection with **Paragraph 44** regarding heating conditions in penitentiary institutions, it is a legal requirement as per Paragraph 4 of Article 63 of the Law on Execution of Penalties and Security Measures that adequate space, lighting, heating, ventilation and hygiene shall be provided in rooms and parts in view of climatic conditions in penitentiary institutions. Accordingly, the heating systems of the penal institutions are established during the construction. The heating of the penal institutions in winter seasons is ensured in view of the climatic conditions of the region of the institution.

Separation pre-trial/convict and male/female/juvenile

60. As to **Paragraph 47** of the Report recommending a "separation between pre-trial detainees and convicts in all prison facilities", the Government would like to submit following information :

61. The separation recommended in the Report is already a legal requirement according to Paragraph 3, Article 111 of the Law No: 5275 on Execution of the Penalties and Security Measures which reads "Separate detention houses may be established for women, minors and juveniles. In detention houses or in those parts of closed penal execution institutions which are allocated for detainees, they shall be kept in separate places for adults, women, juveniles and minors and considering the types of crime." Implementation is carefully monitored as per this provision. Therefore, certain individual examples should not be represented as systematic practices.

Medical care, sanitary conditions and nutrition

62. Regarding the concerns set forth in **Paragraph 48** of the Report on "prompt and adequate access" to medical care, the Government would like to underline that health requirements in the penal institutions are supervised by physicians. First examination and treatment services are provided in the institution for the protection of physical and mental health of the convicts and detainees, and for the diagnosis of the illnesses; those for whom further examination, treatment and rehabilitation is required are referred to the state hospitals while those for whom even further examination is required are referred to university hospitals. All results of the examinations and treatments are recorded in the personal health folders.

63. As per the relevant law, all sorts of treatment and examination are under the guarantee of the government and free of charge. The referrals to the hospitals are conducted in the discretion of the physician according to the medical requirements.

64. Among the inmates, those for whom the specialist physician deemed necessary to refer to the hospital for in-patient treatment are placed in the convict wards of the hospitals where their treatment and follow up are carried out.

65. Regarding **Paragraph 49** of the Report mentioning "insufficient General Practitioners in facilities, problems regarding dental care and psychiatric/psychological support", the Government would like inform that comprehensive measures have been taken in Turkey regarding the said health requirements to date.

66. Following the entry into force of Law No: 5283 on the Transfer of the Health Care Units Belonging to Some of the Institutions and Agencies to the Ministry of Health, first step healthcare provided to the convicts and detainees by the physicians of the institutions

affiliated to the Ministry of Justice until 2009, is started to be provided by the Ministry of Health, within the scope of the universal healthcare system as per the provisions of the Protocol on the Regulation of the Health Care in the Penitentiary Institutions signed between the Ministry of Health and the Ministry of Justice.

67. Currently, healthcare is provided by the family doctors and dentists in line with the provisions of the Protocol entered into force on 30/04/2009 at all penitentiary institutions.

68. The aforementioned Protocol aims to provide better, effective and efficient healthcare to all the convicts and detainees placed in the penitentiary institutions. It also aims to address the issues in the follow-up of the treatments of the convicts and detainees; to decrease the number of referrals to hospitals and to increase the quality standards in healthcare provided in the penitentiary institutions.

69. The District Policlinics within the Campuses of Ankara-Sincan, Istanbul-Silivri, Istanbul-Maltepe and Izmir-Aliağa Penitentiary Institutions provide inpatient treatment services in the status of a hospital directly attached to the Ministry of Health, and the treatment and care of the convicts and detainees are carried out in these policlinics upon the decision of physicians.

70. As per the Article 5 of the aforementioned Protocol, in every institution even those which are constituent parts of large penitentiary campuses having 1.000 and more detainees and convicts, the health care services are provided by family doctors. Healthcare is provided with the support of the physicians for 5 full days in a week in the institutions having more than 1.000 detainees, convicts and personnel, for 5 half days in the institutions having 500-1000 detainees, convicts and personnel and for 2 half days in the institutions having less than 500 detainees, convicts and personnel.

71. Dental services in the penitentiary institutions are provided in the dental units within the penitentiary institutions by the dentists appointed by the relevant healthcare organizations.

72. On the other hand, psychologists and social workers serving in the psycho-social assistance units operating within the penitentiary institutions carry out research and protective studies for mental and physical health of convicts and detainees and make necessary interventions during their service. In this context, 4 psychologists and 1 social worker have been working in D-Type closed prison in Diyarbakir, in order to provide psychological support to the convicts and detainees.

73. As to the claims in **Paragraph 50** in connection with "inmates' transfer to hospital and access to the required medical care" the Government would like to submit the following information.

74. First examination and treatment for the protection of the physical and mental health of the convicts and detainees as well as the diagnosis of the diseases services are provided in the institution; diseases which require more examination, treatment and rehabilitation are referred to public hospitals, the ones which require further medical services are referred to university hospitals. These decisions are made without any discrimination according to the doctor's judgement as per the medical requirements.

75. As mentioned before, all necessary examinations and treatments are free of charge and under state guarantee. Referral of the convicts and the detainees to the hospital is provided by the corps of Gendarmerie based on the physician's decision.

76. However; in case of a sudden illness of the convicts and detainees, 112

77. Emergency Room is informed immediately and patients are referred to the hospital.

78. As to claims in **Paragraph 51** of the Report with regard to "contagious diseases, HIV/Aids and drug addictions", the Government would like to convey that in penitentiary institutions, the convicts and detainees are vaccinated by family physicians. All convicts and detainees in closed penitentiary institutions are screened for tuberculosis at least once a year and also every convict and detainee who have been in the penitentiary institution recently are examined. Those who have been diagnosed with tuberculosis are referred to the related health institutions.

79. Inmates who have tuberculosis are ensured to inhabit in certain areas (such as infirmaries) for a period of time which the doctor in charge determines.

80. Also, supervision of the penitentiary institutions in terms of sanitary conditions are executed periodically by local health authorities and a copy of the report is submitted to the related chief public prosecutor's office.

81. In the event that a convict or detainee informs about having a contagious disease in the first admission, or a diagnosis report regarding the disease is recorded in health file, or the disease is diagnosed with analyses and examinations after being accepted to the institution, the cases fall into category of notifiable diseases according to the Article 57 of Law No: 1593 Public Health Law (such as AIDS, acute bloody diarrhea, whooping cough, brucella, diphtheria, gonorrhoea, mumps, measles, rubella, cholera, rabies, tetanus, polio, malaria, syphilis, anthrax, typhoid fever, tuberculosis, H1N1 and acute viral hepatitis) the Department of District Health Group and Local Health Authorities are notified by the physician/dentist, health officer, other health personnel or institution manager in charge of the penitentiary institution. The required treatment starts immediately and all measures with a view to preventing the spread of the disease are taken urgently.

82. In this context, if an inmate is diagnosed with a contagious disease as she or he is examined in the infirmary of the penitentiary institution, he or she is immediately referred to a healthcare organization where a specialist physician is present for further examination and treatment. Their treatment and controls are made regularly, every phase of the disease is carefully followed in accordance with the medical requirements and legislation.

Counter-terrorism law and decree

83. As to claims in **Paragraph 69**, the Government would like to clarify that the Law 6722 does not grant any immunity for any law enforcement official. It only requires the permissions of the competent administrative authorities before criminal investigations for the law enforcement forces and other civilians taking part in counter-terrorism operations for the suspected offences that might have been committed while carrying out their duties.

84. The exclusion is not a blanket of liability. The prosecutors are able to investigate the suspected offences after getting the permission. If the permission is not granted, the prosecutors or other relevant parties (victims, lawyers etc) have a right to appeal to the administrative court against the decision.

Lack of review of emergency decrees and related human rights violations

85. In **Paragraph 83**, it is claimed that "*.....Since the Special Rapporteur's visit, the Constitutional Court reviewed a number of cases and concluded that it was not competent to receive the complaints because legal remedies had not been exhausted.*"

86. The Government would like to bring to the attention that the Constitutional Court reviewed a number of cases on State of Emergency measures and administrative acts and found those complaints inadmissible because legal remedies had not been exhausted. As far as the individual applications are concerned the Constitutional Court has not concluded that it was not competent to receive any complaints.

87. Furthermore, pursuant to the Decree Law No: 685, the Inquiry Commission on the State of Emergency Measures ("the Commission") was established in order to carry out an assessment of, and render a decision on, applications related to certain measures directly conducted by virtue of the Decree Laws on account of having membership, affiliation or connection with terrorist organizations. The Commission has the authority to conduct an examination as to the measures concerning the dismissal or discharge from public service, profession or organization in which the persons held office, the dismissal from studentship, the closure of institutions and organizations and the revocation of the ranks of retired personnel. The Commission received applications from 17th July through 14th September 2017. In the event that a new Decree is issued, it will continue to receive applications in connection with that Decree. Moreover, parties having legal interest are entitled to file actions against the decisions of the Commission with the Ankara administrative courts which will be determined by the High Council of Judges and Prosecutors.

88. The fact that a judicial remedy has been introduced against the decisions of the Commission is to provide the persons dismissed or discharged from public service, profession or organization in which they held office or closed institutions and organizations with the opportunity to bring their cases before the independent judiciary. The Commission decisions can be appealed. Besides, individual application to the Constitutional Court is applicable.

89. On 12 June 2017, the European Court of Human Rights ruled that the Inquiry Commission has to be resorted to in order to exhaust domestic remedies. This clearly recognizes the Inquiry Commission as a legal remedy for the measures taken directly as a part of the legislative decrees.

90. Furthermore, through the Review Boards established within public institutions and the Prime Ministry, around 35 thousand public employees have been reinstated to date. Around 350 private entities have also been reopened.

91. As to **Paragraph 85,** in connection with a decision on "no grounds to investigate and prosecute a torture complaint in Trabzon", the Government would like to inform that the said decision was not taken to due to the so-called "immunity given to State officials under the State of Emergency decrees", but due to insufficient evidence proving the claims of ill treatment. Furthermore, decision of "no grounds to investigate and prosecute" was later repealed and judicial proceedings are currently underway regarding claims.

92. In connection with **Paragraph 88**, the Government wishes to advise that the civil inspectors who can inspect holding cells are from the Ministry of Interior and in addition to governors, mayors and Human Rights Inquiry Commission of the Parliament, the members of the Parliament can also monitor these places.

93. With respect to the statement in **Paragraph 88**, the Government wishes to inform that, relevant Ombudsman and experts of Ombudsman Institution pay visits to prisons and removal centers. Ombudsman Institution issued a Recommendation, dated 02.12.2016 and numbered 2015/6136, as a result of investigations and on site visit to Aşkale Removal Centre on 20-21 January 2016.

Lack of monitoring of detention locations

94. Regarding the Turkish National Human Rights and Equality Institution, the Government is of the opinion that **Paragraph 90** should be amended as ".....However, at the time of the visit, due to the delays caused by attempted coup on 15 July 2016, no commissioners for the board had been appointed to the Institution.

95. As far as "the dismantling of the Prison Monitoring Boards" are concerned **(Paragraph 91),** the Government would like to inform that with the Decree Law No: 673,

dated 02.09.2016 on "Measures to be Taken Under the State of Emergency", memberships of then the President of Monitoring Boards and other members have been terminated. Yet, new member elections have been completed shortly afterwards. To date, 143 Monitoring Boards have been reinstated in 135 A-size centres; 714 presidents and members have been selected by related judiciary justice commission in these institutions. 394 of the members serving in the Monitoring Boards are newly elected and 320 are old members.

96. In 2016, 382 penitentiary institutions were visited 1.385 times by the 143 Monitoring Boards and as a result of these visits, 852 reports have been drawn up. 1.312 recommendations were made in these reports. Recommendations of the monitoring boards have a breakdown of 8 main categories, namely, execution implementations, rehabilitation studies, health, living conditions, internal security services, referral and transfer processes, physical structure and personnel. In addition to this, there are also recommendations regarding the financial issues. The number of recommendations fulfilled is 962. Thus, fulfilment rate is 73 %.

97. As required by the Article 6 of Law No: 4681 Penitentiary Institutions and Monitory Boards of Detention Houses, Monitoring Board Activity Report of the previous year is publicly announced every year. "2016 Activity Report of Monitoring Boards" has been drawn up and submitted in 2017.

98. Furthermore, between 01.01.2017 - 15.11.2017, 383 penitentiary institutions were visited 1.347 times by the 143 monitoring boards and as a result of these visits, 850 reports have been drawn up.

Documentation of torture and forensic medical examinations

99. As to claims in **Paragraph 93** of the Report, the Government wishes to inform that psychological evaluation of inmates are conducted by the psychologists and social workers who work in the psycho-social help services in the penitentiary institutions.

100. In addition, within the scope of "Structured Psychological Evaluation and Intervention Program" implemented in penitentiary institutions, an early diagnosis and evaluation system has been set up for the purpose of recognition of psychological problems of inmates in early stages. The system consisting of 3 stages is finalized when Research and Evaluation Form (Araştırma ve Değerlendirme Formu-ARDEF) has been filled by the relevant official so that an individualized program for treatment inmate is developed.

101. Regarding **Paragraph 95**, the Government underlines that all forensic autopsies are performed by experts of Council of Forensic Medicine and in case of deaths in custody or in prison, and all autopsies are performed in accordance with the Minnesota Protocol.

102. As to the unfounded allegations in **Paragraph 96**, the Government would like to stress that those who claim to have been victims of torture or ill treatment are examined independently by Forensic Medicine Specialists, in accordance with Istanbul Protocol and they perform their duties free from any sort of pressure.

Recommendations:

103. The Government would like to share its observations with regard to some of the Recommendations in the Report in following articles.

104. In connection with **Conclusion A-4-g** the delays on the work of the National Human Rights and Equality Institution caused mainly by the re-organization process and terrorist coup attempt of 15th July. At present, the institution is determined to carry out its duties within the framework of national preventive mechanism function, in cooperation with SPT, CPT and other international mechanisms, relevant public institutions, particularly the Human Rights Inquiry Commission of the Parliament, the Monitoring Boards for Prisons

and Detention Centres and the Ombudsman Institution, as well as with all relevant non-governmental organizations in order to ensure that the Institution is able to effectively fight against torture and ill-treatment.

105. Currently, the reports of the Monitoring Boards for Prisons and the Provincial and Sub-provincial Human Rights Boards and the applications received by the Institution are under consideration. The Institution is in the process of planning visits with a view to fulfill its function as NPM.

106. In this context, it has performed its first visits as the National Prevention Mechanism to the police headquarters, psychiatric nursing hospitals and prisons in Rize and Trabzon, on October 16-18, 2017.

107. With regard to **Recommendation 4-(b)** *("ensure adequate access to work, training, education and recreation for all offenders, including terrorism-related convicts...")* the Government would like to refer that the Law No: 5275 on the Execution of Sentences and Security Measures takes the rehabilitation during execution as a basis. It is stipulated in Article 7 of the said Law that:

> (1) The success of programs aiming at the rehabilitation of convicts during the execution of prison sentences shall be measured by new attitudes and skills gained by convicts. For this purpose, there should be motivation on the side of convict towards the efforts of rehabilitation.
>
> (2) The prison sentence shall be executed in accordance with such programs, methods, means and mentality as shall be designed to minimise the harmful effects inherent in the prison sentence. The means of rehabilitation shall be implemented according to procedures and principles that shall ensure the protection of the convict's health and his self-respect."

108. In addition, "Part Four", which includes 8 different Sections and 29 different Articles of the Law No: 5275, has been dedicated only to the matter of "Rehabilitation" and it has been guaranteed in the legislation that utmost sensitivity to this matter shall be displayed.

109. As to **Recommendation 4-(d)** *("ensure the prioritisation of alternatives to detention for all juvenile offenders... ensure their detention in separate rehabilitation facilities...")* the Government would like to inform that alternatives to detention for juvenile offenders are in place and progressing.

110. In this regard, "Anka Child Support Programme" is developed by the Ministry of Family and Social Policies (MFSP). In this program, field personnel and academics work on preparing pyscho-social support and intervention schemes for children under protection, i.e. staying at child support centers of MFSP, who are drifted into crime, victims of crime, at risk of crime and living on streets.

111. Concerned child's needs and risks are assessed by way of individualized need and risk evaluation form (INRDF) (BİRDEF).

112. It is aimed that children drifted into crime, victims of crime, at risk of social dangers on streets are motivated to be open minded, forward-looking, self-improving, believing in success and themselves, to live in welfare and to be prosperous individuals.

113. Within the framework of Anka Child Support Program, a professional consultant is assigned to every child by institution director. The consultant fills an individualized risk and need evaluation form for accepted child in the first ten days. On the form, how the child came to the institution, reason of acceptance, educational status of child, economic status of the family, habitual residence, friendship relationships, physical status, psychological status, addiction status, abuse and delinquency status, personal characteristics, behavioural

problems and family characteristics are evaluated. With regard to risks and needs, after the form evaluation, group work and individual consultancy service is served to the child and his/her family.

114. In individual consultancy services, home escaping, self-harm behaviours, suicide, victimisation of abuse, crisis management, intervention to crisis and trauma modules are implemented.

115. Group works consist of modules on personal development, healthy life, emotional arrangement, personality improvement and addiction. While personality improvement and healthy life modules are applied to all children, other modules also varies according to individual circumstances such as being drifted into crime, victims of crime, substance addiction, pregnancy, anger management, impulse disorder etc.

116. With regard to **Recommendation 5-(g)** *("ensure adequate training of all health professionals involved with detainees, ... application of the Istanbul and Minnesota Protocols.")*, the Government would like to recall that at the training centres for the personnel of the penal institutions and prisons, information on the importance and scope of the Istanbul Protocol and its implementation principles relevant to the complaints of torture is taught to the personnel responsible for conducting the healthcare services of penitentiary institutions.

117. Also, during the training programs for the administrative and technical personnel of the penitentiary institutions, which are carried out with the support of the Directorate of the Institution of Forensic Medicine, the scope and principles of Istanbul Protocol is elaborated.

118. Moreover, until today, 33.223 personnel have received trainings on "Human Rights" at the training centres for the personnel of the penitentiary institutions.

119. Regarding the **Recommendation 5-(i)**, *("ensure and facilitate regular, effective and independent monitoring of all institutions or locations where individuals may be deprived of their liberty, by national and local bodies...,")* the Government wishes to submit following information:

120. In addition to its own supervisory bodies mentioned above (Article 40), the penitentiary institutions directed by the Directorate-General of Prisons and Detention Houses of the Ministry of Justice are monitored by :

- -The Human Rights Inquiry Commission of Parliament, constituting the members or parliament selected by the Grand National Assembly of Turkey according to the Law No: 3686 of the Commission on Human Rights Inquiry,
- -The Monitoring Boards established by the Law No: 4681,
- -The Ombudsman Institution established by the Law No: 6328,
- -The Human Rights and Equality Institution of Turkey, established by the Law No: 6701 dated 20 April 2016.

121. Furthermore;

- -Since Turkey is a party of the European Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment since 1989 and is a party to Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) since 2011, all institutions or locations where individuals may be deprived of their liberty are also open to international monitoring.

- Apart from the investigations conducted by the bodies that are independent from the administration, judicial review is also ensured as a result of the exercise of the right to objection against the Offices of Judge of Execution established by the Law No: 4675 and of the right to individual application to the Constitutional Court and to the European Court of Human Rights.

122. Regarding the Recommendations-7(a), (b), (c) and (d) ("ensure that all detainees remain under the direct supervision of guards and law enforcement officers of the same gender at all times including transfers"…. body searches, strip searches and any other physical examinations medical examinations and consultations") the Government would like to recall that transfer and referral of the convicts and detainees are essentially carried out by the external safety officer, in line with the provisions of the Protocol on the Conduct of the Management, External Protection, Transfer and Referral of Convicts and Detainees and Medical Services of the Penal Institutions.

123. In Article 19 of the said Protocol following provisions are set out:

- Except for obligatory cases, the letter for referring the convicts and detainees to hospital or hearing shall be sent to the gendarmerie two days prior at the latest, and the convicts and detainees shall be duly transferred on the day or at the hour required by the gendarmerie protection unit command.
- Except for obligatory cases, transfer of the convicts and detainees to be transferred to another penal institutions shall be made within a month at the latest, from the time when the relevant letters are referred to the gendarmerie.
- Except for obligatory cases, the information on referral of the convicts and detainees to be transferred shall be reported to the institution's administration, at the latest one day before the transfer.
- For the referral of female convicts and detainees to a hospital or hearing within the province, female execution and protection officers shall be assigned in case there is no enough female gendarmerie officers."

124. Within this scope, female convicts and detainees are transferred, accompanied by female gendarmerie or the female personnel of Directorate General of Prisons and Detention Houses of the MoJ.

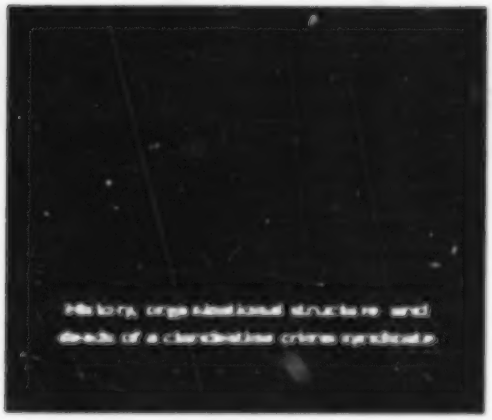
125. On the other hand, searches are made in accordance with the third paragraph of the Article 46 of the Regulation on the Administration of Penal Institutions and the Execution of Penalties and Security Measures, stipulating that "Body search shall be made by the security and custody officers of the same gender".

126. During the medical examination of convicts and detainees, actions are taken in strict observance of the privacy of the patients, in line with the following provisions of Article 38 (*"Ensuring safety and patient privacy during medical examinations"*) of the Protocol on the Conduct of the Management, External Protection, Transfer and Referral of Convicts and Detainees and Medical Services of the Penal Institutions:

- In the hospitals located in an area where a Directorate for Penal Institution is present, secured clinics, where breakout is prevented, shall be established.
- Examination of the convicts and detainees shall be made in such secured clinics preventing breakout. The gendarmerie shall be on guard outside the clinic and take necessary security measures. Upon the physician's written request, the gendarmerie shall be present inside the clinic.

- However, all kinds of illegitimate requests of the convicts and detainees during the medical examination shall immediately be reported by the medical personnel to the gendarmerie patrol commander.
- Until the secured clinics for the convicts and detainees are established in hospitals, the gendarmerie shall be present in the current clinic, taking protective measures where he/she cannot hear the conversation between the physician and the doctor.

Annex



FETULLAH GÜLEN AND FETÖ

FETULLAH GÜLEN AND FETÖ

1. BRIEF HISTORY OF FETÖ

The foundations of FETÖ were laid by Fetullah Gülen in Izmir in 1966.

In the early 1970s Fetullah Gülen and an inner circle of friends established the core cadre for the organization.

The organization fed on perceptions of exclusion among Turkish society's conservative, pious section. The perception was that the traditionally secular state had excluded religious people from politics and state institutions. The regime had to be more Islamic, but in the way Fetullah Gülen understood it.

Solution for success advocated by Gülen was to be patient, to portray the movement as a benevolent civil society organization and gradually infiltrate key state institutions.[1] In other words, Gülen aspired capturing the State from within rather than attacking it from outside. To this end, the organization has moved with secrecy rather than transparency and built a wall of invisibility around itself to give the impression that it was non-existent. 2

They exploited religious themes and concentrated their activities particularly on students and other youth groups aged 13-18 years. Fetullah Gülen communicated his views through sermons and speeches recorded and distributed on audiocassettes and videotapes. Communal gatherings and particularly summer camps were other methods used to disseminate Gülen's views on religion to a larger group of followers.

By the end of 1970's, Gülen had already become a leader of a distinct, cultish religious group.

In the process the movement became double-faced. The visible face was non-confrontational, charity-oriented, education movement. The darker face was a secretive, highly hierarchical, anti-democratic, self-styled religious formation around the persona of Fetullah Gülen, a cult of personality.

In short, the organization gradually turned from a religious movement into a secretive operational structure aimed to transform society by taking control of the Turkish state from within. As its strength grew, the organization began to claim a messianic mission at a global level, depicting Fetullah Gülen as the "Imam of the Universe", "the Chosen One".

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1 https://www.youtube.com/watch?v=5gpbKWcOBWA: "You must move in the arteries of the system without anyone noticing your existence until you reach all the power centers… until the conditions are ripe… You must wait until such time as you have gotten all the state power, until you have brought to your side all the power of the constitutional institutions in Turkey… Until that time, any step taken would be too early - like breaking an egg without waiting the full 40 days for it to hatch. It would be like killing the chick inside."

2 "Presence of our friends in vital bodies like Court Houses, Civil Services or in another important body should not be considered as individual acts. These people are our guarantee for the future in these bodies. They are the guarantee of our presence.
"As of 1967, the number of those educated (by him) has been 15,000. The educated people have already been placed in some institutions. The services should be secret and swift. In order to realize an Islamic revolution in Turkey, two conditions should be met: the first one is to gain the support of the 40% of public, and second one is to obtain political and economic support from the communities within the foreign States (both Muslim and non-Muslim). When Turkey comes to the point where these two conditions are met, our members in top positions within the state will take action (15 April 1987, Istanbul, during the 2-month training camp of 70 regional imams)."

The evolution from a religious cult into a criminal organization can be broadly examined in three phases:

The first phase lasted until the military coup of September 12, 1980. During this phase, special dormitory houses (Işık Evleri- "Heavenly light houses") and preparatory schools were established to recruit followers. In this phase, the organization concentrated also on infiltrating state institutions, in particular the critical ones such as the police.

In the second phase (1980-late 1990s), the organization doubled down on educational activities. Infiltration to public institutions in high numbers began. In order to raise revenues, the organization turned itself into a quasi-corporation and formed a conglomerate (Kaynak Holdings), established a bank (Bank Asya) and commenced activities in areas other than education such as health (Şifa Hospitals), transportation (Nüral Logistics), and media (Zaman newspaper, Samanyolu TV, etc). Moreover, this phase was the start of the globalization of the organization. Following the end of the Cold War, Fetullah Gülen expanded his network in Caucasia, the Central Asia and the Balkans, and eventually established presence in around 160 countries across the world.

The third phase, began after the so-called post-modern coup of February 28, 1997, and ended with the infamous coup attempt of FETÖ on 15 July 2016. Faced with a judicial process incriminating him on attempting to overthrow the secular constitutional regime, Fetullah Gülen left the country in 1999, and settled in the USA[1]. This marked as one of the milestones in the internationalization of the organization. After departing Turkey for the United States, Gülen adopted a new rhetoric, presenting himself and his organization as an enlightened, pro-Western progressive and moderate manifestation of Islam; concentrated on such themes as "interfaith dialogue".

In the same period, the process of democratization and efforts for inclusive governance accelerated in Turkey, with the coming to power of AK Party. The governing party opened channels for conservative religious groups to find a stronger voice in politics.

Yet, Gülenists purposefully chose not to enter into politics and compete legitimately within democratic rules. Instead, they continued attempts to capture more positions in the civil service by people with a hidden allegiance to Gülen, not to the legitimate public authority.

Efforts of the organization taking control of the state apparatus became stronger since mid-2000s. Members of the organizations who had already taken key positions in the judiciary and the police resorted to illegal methods to purge the opponents of the organization, including those in the army. Forged documents, faked evidences, sham trials, illegal wiretapping, blackmailing etc. were used for this purpose.[2] In short, the organization that started as a religious movement became a Parallel State Structure posing a grave threat to the democratic, secular constitutional regime of Turkey.

The Government's efforts to eradicate this threat intensified in the last three years and the controlling power of FETÖ in most of the state institutions was eliminated. 15 July coup attempt was the last and bloodiest resort of the organization to survive in Turkey.

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[1] It is noteworthy that the estate he now resides (Golden Generation Worship and Retreat Center) had been purchased and transformed to become his eventual sanctuary as early as 1994.

[2] For reference, find the attached note on the Sledgehammer Trials.

2. IDEOLOGY OF THE ORGANIZATION AND THE LEADERSHIP

FETÖ, like other terrorist organizations, has its own on peculiar faith/ideological base and a narrative that enable its members endure difficulties, sacrifice personal relations, and do anything to reach their goals. FETÖ members carry out all kind of deeds with no regard to any legal and moral codes, by acting in full obedience with the leader and believing in their righteousness.

The absolute leader and the only dominant person of the organization is Fethullah G(ÜLEN. Other executives carry out the work assigned by him and on behalf of him.

G(ÜLEN is called by members of the organization as the "Imam of the Universe", "Divine Human", "Great Master", "One who has the talent of communication with metaphysic world and afterlife", "Mahdi", "Messiah", "Divine Person", Honorable", and "Master Teacher".

Attributing divinity to himself G(ÜLEN considers that he is not bound by any religious, moral, or judicial rules. He regards himself as an authority that can behave opposite to what he says, overturn a religious prohibition, put into practice new bans. He sees himself as an authority capable of changing basic religious codes.

From the onset of his movement Gülen made his followers believe that in order to survive under a suppressive secular State, they should act with absolute precaution. In Gülenist terminology "*Precaution*" refers to an array of things to obscure a member's affiliation with the organization: hiding the books of the Organization; going in and out of the Organization's secret houses not in groups but one by one; being very careful when meeting somewhere in case of being followed; and most importantly obeying the instructions of the leader.

While asking the members of the Organization to be cautious, he was also taking them under his wings and putting his clamps on them. In other words, he became more powerful by scaring the members and strengthening their feeling of belonging with the Organization.

Members of the Organization learns and practices "the precaution" from the very first moment when they became a part of the Organization. Over the course of time, precaution evolves and turns into the practice of "hypocrisy".

Under the absolute dominance of its leader, the ideology of FETÖ is also formed by opinions and ideas of G(ÜLEN. In the eyes of Gülen, humanity is simply divided between the "men of the service" and "others". He further categorizes "others" into two groups: "those who can be attracted to the organization" and "the enemy front". Such a distinction provides a reason for legitimacy to the Organization, since it always seeks an enemy front, defines itself over this enemy and motivates its members over this enemy.

The strategic aims of the organization are three-fold:

Political: to seize all constitutional institutions of Republic of Turkey (executive, legislative and judicial powers) to create a new system based on the dominance of an elite (Gülenist) class and to become an influential political power at international level;

Economical: to form a parallel taxation system under the name of "Benevolent contributions" by exploiting religious feelings of the society, to establish big holdings and companies including education institutions, finance, media, NGOs and health institutions at home and abroad and to administer economic power by means of its own cadres who were raised with the culture of absolute obedience;

Social and Cultural: to create a new model of human being called "men of the Service" characteristics of which are given in the discourses of GÜLEN; to form a new society comprised of this new human model, a monotype personality; to define social and cultural relationships in terms of new human-society, and therefore to administer social power.

Hence, FETÖ's general ideology is " to seize all constitutional institutions of "Republic of Turkey (executive, legislative and judicial powers) and to administer economic, social and political power by an elite class having oligarchic (aristocratic) features by redesigning State, society and individuals within the direction of ideology of FETÖ after this process is completed".

3. THE STRUCTURE OF THE ORGANIZATION

FETÖ has a two-tiered organizational model and a strict hierarchy.

The first layer is the legal and visible side. On appearance, GÜLEN leads a civil movement called "Hizmet "(Service). They run a variety of associations in media, education, humanitarian work, printing and banking sector, business associations etc. Under the guise of legitimate social service efforts, the organization gained access to vast financial resources, human capital, political and social influence.

Yet, the organization has also a dark underbelly, operating in secrecy in a very strict hierarchical manner. This layer is run by a caste system created by GÜLEN.

GÜLEN has an obsession with "seven levels of heaven" and divided his members into seven categories. It is a strict, hierarchical caste system where promotion to upper levels is possible, yet advancing above the fourth level is conditional upon the verdict by the Leader.

First Level: Commons: This level consists of those who provide practical and financial support, assuming that they are helping a religious charity movement. Most of them are not included in the Organization's hierarchic structure. They are common people who serve the Organization but generally unaware of its illegal activities. Those in this level are lured to the Organization because they believe in the good deeds of Islamic charity.

Second Level: Loyals: This is a loyal group working at the schools, private teaching institutions, dormitories, banks, newspapers and foundations of FETÖ, or those members working at state institutions. The members in this level regularly participate in the meetings, pay subscription fees, and know a little bit about the ideology of the Organization. In order to be included in this level, one should be a member of the Organization.

Third Level: Ideological Organization Level: The members in this level are involved in unofficial activities. They are the ones who have adopted the Organization's ideology and are devoted to the Organization on the highest degree. They spread the ideas of the Organization in their circle.

Fourth Level: Inspection and Controlling Level: The members in this level supervise the whole service (legal and illegal). Those who rank the highest in respect of devotion and loyalty can advance to this category. They are selected and included in the Organization from childhood. Those who join the Organization later on generally cannot be assigned to positions at this level.

Fifth Level: Organizing and Executing Level: This level requires top secrecy. The members in this level hardly ever know each other. They are the ones assigned by GÜLEN to organize and execute the structure within the state.

Sixth Level: Privileged Level: The members in this level enable the communication between GÜLEN and lower categories. They are assigned by GÜLEN and deal with appointments within the Organization and expulsion from the Organization.

Seventh Level: Leadership Level: This level is composed of 16 top executives plus GÜLEN who are unconditionally devoted to and assigned by

GÜLEN.

Cell Type Chain Structuring:

One important reason why FETÖ could not be deciphered easily is that the Organization preferred the cell type horizontal structuring model. The cells are units mostly composed of maximum 5 people and affiliated with a senior brother/sister. The cells form a chain where they are firstly affiliated with senior Imams, then country, continent and executive directors.

Senior Bodies that Manage the Organization

The Supreme Boards under Fetullah GÜLEN manage the units of the Organization and regulate its activities. These Board are Advisory Board, Mullahs, Appointment Board and Special Service Units.

a) Advisory Board (Grand Nobles Board):

This is an executive board consisting of the members whom the Leader of the Organization consults with. They are 16 people who serve as both advisors and leading directors of the units of the Organization. Members of this board are those who have been with GÜLEN from the foundation of the Organization, and GÜLEN's own relatives. They collect information, report to Gülen about the collected information guide other members, carry out control and investigation tasks. A considerable number of Grand Nobles live in the United States together with GÜLEN.

b) Mullahs

Originally religious scholars by profession, Mullahs act as inspectors of GÜLEN. GÜLEN trained them personally. Mullahs have dominance upon the

Organization. They are highly respected within the Organization. In case a problem occurs, GÜLEN appoints these Mullahs whom he totally trusts.

c) Special Service Unit

GÜLEN, also meets one-to-one with the members called "special service unit" and appoint them to do his private works/affairs

General structuring of the Organization is ranked in the following chart and below:

Imam of the Universe,

Continent Imams,

Country Imams,

County Imams,

Province Imams,

Town Imams,

District Imams,

Neighborhood Imams

House Imams (senior brothers/sisters) (In each special houses of FETÖ 4-5 students are invited to stay. The related Senior Brother is responsible for the students in that house. It is the first step of recruiting new members to the Organization. The Organization gives scores to students based on their loyalty and dependence to the Organization. According to the scoring system, those who get 5-4 or 5-5 can become House Imams. There is also always a senior sister responsible for female students in a house.)

Hierarchic Parallel State Structuring:

Apart from geographical structuring, as referred to above, there are also Imams in each state institution responsible for the FETÖ members working there. This unit, which acts secretly even within the Organization, is not only present in Turkey, but also abroad, and tries to gain control of state institutions in countries where the Organization is present.

There is also a **"phantom structure"** in the Organization. Only GÜLEN knows and appoints its members. The duty of the phantom structure is to monitor the high level members in order to prevent regional, provincial, town and district Imams from betraying the organization.

Secret Service Imams: These units are deemed by the Organization and Fetullah GÜLEN as the most important. It is the backbone of the Organization and consists of the Imams of Judiciary, Police, Armed Forces, National Intelligence Agency Ministry of Education and other critical state institutes such as ÖSYM (centralized testing and placement center), TUBITAK (Scientific Research Center), GATA(Military Medical Academy)

Through this unit, FETÖ was able to extent its influence to the extent that they were able to appoint all the members of the Court of Cassation and the High Council of Judges and Prosecutors in 2010 elections. There are several examples of court decisions taken by the FETÖ linked judges advancing the interests of FETÖ by means of their members in the judiciary. By using the secret service units in the judiciary and police units simultaneously and in coordination, the Organization was also able to orchestrate large scale sham trials against hundreds of politicians, bureaucrats, civil servants, journalist and military officers who stood on their way.

Similarly, a civilian "imam" is responsible for the FETÖ structuring within the Police. Below this imam comes other low ranking "imams" responsible for each

police unit such as counter-terrorism department or intelligence department. FETÖ-affiliated police officers take orders from these civilian imams, rather than their legal superiors. This was the reason why these FETÖ-linked police conducted large scale illegal wiretapping all over Turkey; they acted upon the orders of their FETÖ imams and paid no respect to their institutional superiors or legal codes.

FETÖ members in the Turkish Armed Forces are also subordinate to a civilian Imam. As the military is the most important institution for the purposes of FETÖ, the Imam assigned for this post is also very important. The Organization started infiltrating to the military after 1980s. They selected poor but clever students, brainwashed them at the "Houses" and directed them to Military Schools.

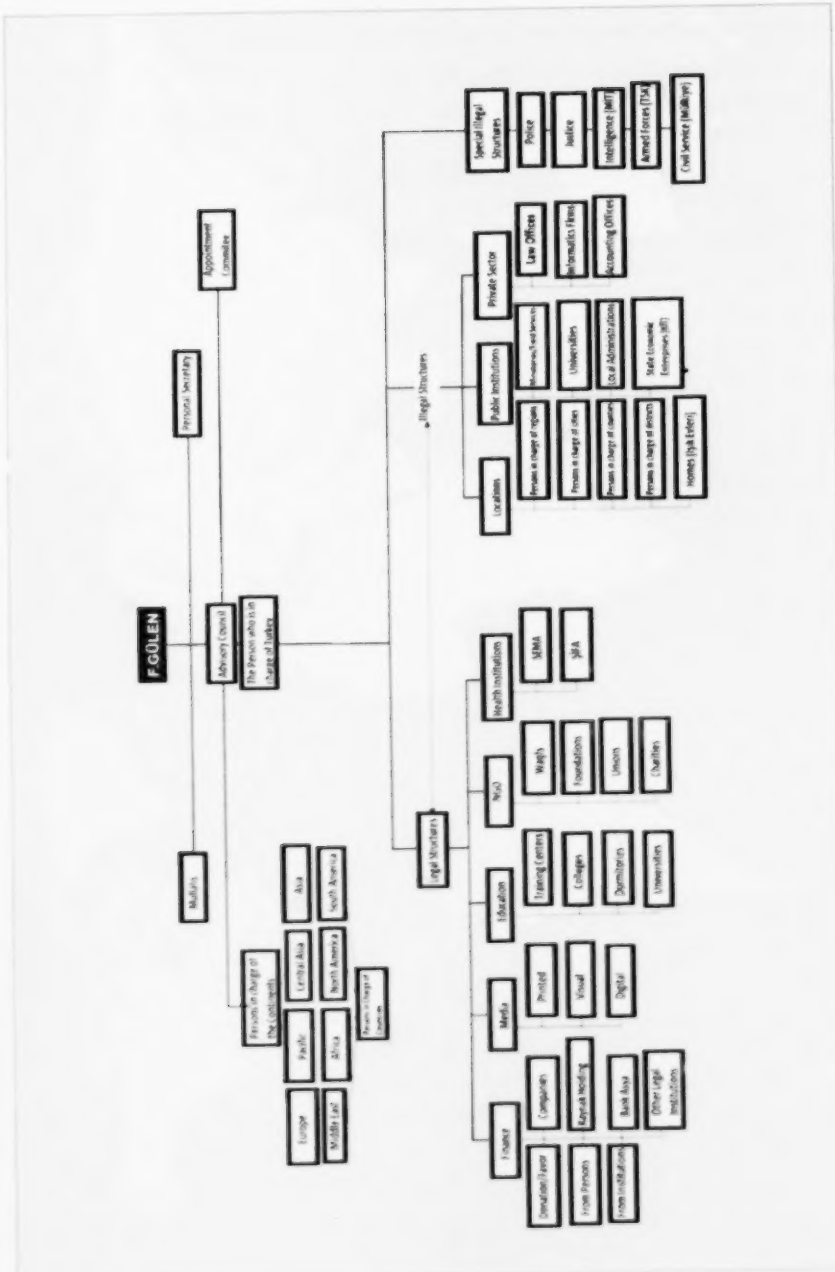
The organization also formed special unit imams in

ÖSYM (Student Selection and Placement Center) to ensure mass staffing at the public institutions.

- TIB (Telecommunications Communication Presidency) to carry out illegal interception and intelligence gathering, and
- TÜBITAK (The Scientific and Technological Research Council of Turkey) to control scientific and technological researches.

Overseas Structuring:

For every continent, the Organization has Imams responsible for the activities of the organization. Below them are Country Imams. In each country where FETÖ is active, FETÖ activities are financially supported by members from a specific Province in Turkey. For example, the cost of FETÖ activities in country A are generally borne by FETÖ members in the Turkish city of B. In return, the latter are provided with business opportunities and networks in that country.


F. GÜLEN
Advisory Council
The Person who is in Charge of Turkey
Personal Secretary
Appointment Committee
Muftis
Persons in charge of Organizations
Asia
South America
Europe
Middle East
Africa
North America
Pacific
Central Asia
Legal Structures
Illegal Structures
Health institutions
Wqf
Education
Media
Theater
Special Illegal Structures
Police
Justice
Intelligence (MIT)
Armed Forces (TSK)
Civil Service (Ministries)
Private Sector
Public Institutions
Locations
Law Offices
Accounting Offices
Universities
Persons in charge of regions
Persons in charge of cities
Persons in charge of districts
Homes (Safe Houses)
Wealth
Foundations
Unions
Charities
Training Centers
Colleges
Dormitories
Universities
Printed
Visual
Digital
Complaints
Other Legal Institutions

4. WORKING MODALITIES

The working modalities of the organization are based on secrecy, opaqueness and "precaution":

- Taking an oath that promises strict obedience and loyalty to the leader
- special encrypted communications, such as **ByLock**, Tango, Eagle
- using "one-dollar bill"s with special serial numbers in accordance with their rank, in order to show their allegiance with the organization
- Using code names in order not to reveal their identity
- Disseminating coded messages hidden in Gülen's sermons and interviews
- Hiding affiliation with the Organization at any cost, posing as "secular", "atheist", "leftist", "liberal" according to prevailing circumstances.
- Imposition of counter-intelligence measures

Organization has made the notion of secrecy and concealment a life style which obliged the members to adopt hypocritical attitudes and behaviors. The statements of Fetullah Gülen as detailed below reflect his hypocritical mind.

"... Consider the philosophy of Islam. The one who commits adultery at the war front is not punished with penalties in Islamic Law. The hand of the one who steal anything at the war front is not cut. A person who slanders at the war front is not penalized for slander. They are not allowed to do these kinds of things again but punishments do not take place at the war front. Why? Life is sweet. What if he changes his side? Heaven forbid, what if he abandons his religion? What if he sides with the enemy? This is the philosophy of Islam"

All these measures, including using code names, peculiar communication language, counter-intelligence, and encrypted communication methods has made FETÖ almost invisible. Fetullah Gülen seized the advantages of this invisibility both in defense of the organization and in attacking the "enemy".

"In Fiqh books, it is said that 'If anyone is forced to adultery, then they are not considered as having committed it. Anyone who is in trouble may deny Allah verbally .....Strengthening the hand of enemies in a manner that it will be disadvantageous for such a case is like a sin that cannot be overcome."

"A well-balanced man of the Service does not immediately say the things he will say. He knows that if he says everything right now, there may be some people who will not let him live. The conditions may become heavier against him, therefore he might fall in a problematic ambient."

5. RECRUITMENT/INDOCTRINATION

Schools are the main recruitment grounds for FETÖ.

In Turkey the target group are poor families. Abroad, mainly in Central Asia and Africa, influential families are targeted for these schools established by this organization. It is estimated that around 1000 educational institutes are owned and managed by FETÖ worldwide.

In addition, the so-called **"Heavenly Light Houses"** with 5-6 students each, are used to recruit and indoctrinate the new generation. Anyone who was not trained in one of these houses is not accepted as a main member and is not assigned for organizational tasks. Currently the top administrative staff of the Organization are all composed of those former students who were trained in the first heavenly light houses built by GULEN decades ago.

The Gülenist military officers who actively participated in the coup attempt by on 15 July, and the other members of the Organization who provided support to them were all trained in these houses.

Students trained in these houses are brainwashed to give priority to "the Service" instead of "homeland", "capturing the political power" instead of "democracy". They are thought on "the Grand Nobles ruled by GÜLEN; an oligarchic administration where sovereignty is exercised by aristocratic class" instead of the "sovereignty of people".

The expert personnel called "mentors", who are assigned to provide human resources for the Organization act in line with a pre-detailed method especially in bigger cities.

After the first contact is established with the targeted student, "TREAT" is put in process meaning: family visits, picnics, meals in beautiful and distinguished places, social and cultural activities, and every kind of financial aid.

GÜLEN emphasizes the importance of "Treat" in recruiting new members:

"The methods of infiltrating the soul of the students must be searched. This is a humanitarian way of approach. It is like giving presents or solving their problems. Every legal way to win the heart of the students must be tried and it must be achieved. I mean, the targeted person should accept our personal friendship. This is an important factor in their acceptance of thoughts that will be conveyed by us, and this issue must not be neglected"

A specific monetary fund under the title "Treat and Guidance Expenses" is allocated for student imams from the central cash deposit safe of the Organization to cover such kind of expenses.

The first method of recruiting new members to the terrorist organizations is approaching to a person from a low income family, or a family that does not care about their offspring, or a broken family. These students are then convinced that they are not alone, they belong to a group and gradually their brains are washed with the Organization ideology.

FETÖ benefits from this need of belongingness through heavenly light houses for recruitment. In this view, FETÖ uses similar methods in obtaining new members with other terror Organizations.

During the process of "treat", necessary notes about the target students are taken. This is the step just before the youngsters who fall in FETÖ trap are invited to the FETÖ houses. GÜLEN said: "We have to know the belief and cultural level of the students very well. For example; we should not read even the Quran, if this is going to scare them and make them run away from us. (…) sometimes this kind of arrangement is not made, the words uttered for the sake of showing the true path will create a reaction on them and it is of no use to make an explanation later".

The most distinct characteristics of these houses are that they are far from being transparent, secret, uncontrolled and unknown places. Code names are given to the houses in question, to the "elder brothers" of each house and to the students staying in these houses in order to ensure confidentiality.

GÜLEN describes the functioning of Enlightenment Houses as follows:

"These houses may also be called as charging houses. Plans and projects are produced in these houses. The persons who are trained in these houses set sail to conquer the world. They try to enter the hearts of the people. These houses are the places of loading and discharging. The residents are loaded here and then they go and discharge themselves in empty spaces and in empty bosoms. These houses are functioning like a work station, like a Muslim theological school, and like a school to prosper and equip the template generations who are instable, corrupt and irregular. At a time, when everywhere is closed and every door is locked, these houses shoulder a greater mission than the one in the past. These houses are not the ones that have just a minaret on it and where everybody goes in when the Azan is recited, as you are accustomed to. The word "uncharted" is chosen as word to characterize these houses. These houses are unspecific… (…). I mean, you will not know when these houses will appear."

The youngsters trapped in the spider's web- in the words of GÜLEN himself- are convinced that they are safe the responsible senior brothers guarantee that both their education and every kind of their needs will be satisfied. Also the youngsters are explained that their future is guaranteed by being sheltered under the wings of the Movement because they will be placed and employed either in government institutions or private sectors to work and make career.

There is a very strong relationship established between the senior brothers and the youngsters under their responsibility. The senior brothers are trained in line with the tactics underlined in the book named "Irşad Ekseni (Axis of Guidance)" by GÜLEN and then they are assigned to establish friendship links. This process is like the training of trainers. Following the process, the senior brothers are given weekly, monthly, quarterly, semi-annual and annual ideological schedules and they train the target persons in line with these schedules. The youngsters who stay in those houses are kept away from their own social environment systemically.

This ideological training continues for five to ten years, the "militant identity" is built.

In addition, the males that are trained in these houses are obliged to marry the females who are also trained with the same ideology so that the Organizational links are strengthened, since the Organization aims at establishing a permanent base and form a new society who is inseparable and deeply loyal to each other.

The individual transformation starts with the emotional loyalty, feeling of individualism is removed from him and then a single type militarist person emerges. GÜLEN himself refers to them as "Privates of Hizmet Movement", "Conversation Guards" and "Enlightenment Cavalries". Upon entering the organization, members have to pledge their obedience to FETÖ:

I wish this swear is to be continuous and forever and swear on the name and witnessing of Holly Allah that.

- *Holly Koran will be my meaning and aim as far as I can afford*
- *I will be loyal to my brothers*
- *I will raise the honor and dignity of my student friends and the people as high as mine*
- *I will be glad in case somebody reminds me my faults*
- *I will refuse various attacks and criticisms coming from in and out of the community as they were directed towards my honor*
- *I will obey the rules and procedures that are in the Decision Reports*
- *I will execute all the missions given to me on behalf of the service movement or my obligations that are delivered to me by decision without any hesitation and objection*
- *I will never fall away being loyal to Holly Koran*
- *I will annul myself from the position I am filling and then I keep on performing my duties as an ordinary student if I behave isolated and object to the decisions*

[illegible]

- Gücüm yettiği sürece, [redacted] hayatıma geçe edinceğim
- Kardeşlerime karşı sadakat içinde bulunacağım,
- Halkım ve Talebe arkadaşlarım huzur ve huzurlarını temin ve onurum kadar yükseltmeğe çalışacağım,
- Kusurlarımın hatırlatılması karşısında memnuniyet izhar edeceğim
- Dahilden ve Hariçten gelen bilumum tazyik ve tenkitleri nefsim yapılmış gibi kabul edeceğime, bilimin kesin listesindeki esaslara riayetkar bulunacağıma,
- Hizmet adına ücrete aldığım vazifeleri veya kanunla bana tahmil edilen mükellefiyetleri itinasız yerine getirmeğe çalışmıyacağıma,
- [redacted] sadakatten hiçbir suretle ayrılmıyacağıma,
- Münferid hareket edip bu kanunlara muhalif davrandığım an inti-yarımla bu kadroda kazandığı itibarı nazar edip merhametsiz bir talebe gibi durumu yine vazifeme devam edeceğime, " VALLAH - BİLLAH kasemleriyle yemin ediyor, ve bu yeminin İlâ Yemini olmasına ZEMAB-I HAKKI istinbatla bulunuyorum.'

The students, thus, lose all their personal freedom. They always remain to be advised. They obey what they are told by brothers upon the belief that senior brothers always gives the right decision.

GULEN emphasizes in all his conversations that the members of the organization are the "chosen ones", "first ones" in the eyes of God:

"I beg to Allah the Great and wish that, this "Army of the Sacred", this "Distinguished Cadre" which prepares a new resurrection again in his world of thought, embraces and protects the cause, with the same consciousness, and accelerates the down of the spring promised by Allah. I wish they will not sentence us to crawl in a long tunnel for a long time. They help us and each other to cross the tunnel quicker."

In another occasion GULEN talks about his dream: *"I was in front of the hell. I opened my arms wide to stop the people who were flooding. I could not stop them and I stepped aside at last. I swear to Allah that there was no one from our community among them."*

The students who are brainwashed in these schools and houses are closely followed throughout their life. All crucial decisions regarding their personal and professional life are made by FETO.

- FETO enables these students' admission to leading universities (in reality through cheating in the higher education entrance examination system and entrance tests for the military schools);
- Then, the organization secures a job for them upon graduation, (in reality through cheating in public personnel entrance test, and special entrance examinations of leading public institutions, armed forces academy and even that of the Turkish Foreign Ministry);
- Then, FETO ensures their rapid promotion in the state institutions, (in reality through destroying the carrier opportunities of other public servants who are not

affiliated with them.) For instance, it is now understood that in the last 6 years FETÖ-affiliated doctors in the military hospitals in Turkey discharged around 500 military pilots from service, by producing false reports indicating serious health issues. By so doing, they opened the way for the promotion of Gülenist military pilots.

- In exchange, the followers would donate 10-20 percent of their future salaries back to FETO. They also act upon the orders of their leaders without questioning.

6. FINANCIAL STRUCTURE

During late 1960s Fetullah Gülen worked as a Preacher in Izmir, addressing the community of a small mosque. When he first set off, he was supported by a circle of people attracted to his dreams of raising a "Golden Generation" and his discourses "to grand scholarships and education to the students in need".

Initially, the financial resources necessary for his mission were provided by contributions in kind such as animal skins, food aid, etc., or by supply of money under the cover of "contribution to the students in need" in a traditional way such as "fitrah, alms, donations, grants, benevolent contributions".

Gradually as FETÖ network and financial wealth expanded, the organization started investing in education sector. It established private schools and dormitories. It founded companies dealing with education business and managed the schools through these companies. After a while, the organization set up a printing house to carry out the publications of the education sector. It opened book stores to sell the products; set up companies in relevant fields because the schools needed uniforms and furnishing. The expansion continued with the foundation of logistics and cargo companies, investment in the health sector and finally FETÖ became a dominant figure in all areas of business including in the food, textile, insurance media (Zaman, Samanyolu, etc) and banking (Bank Asya).

The financial resources of FETÖ are derived from donations gathered from people by exploiting their religious and charitable feelings. The organization's money and property is collected as "himmet" generally grants, donations, contributions, offerings and aid for students, the poor and orphans. Donors are typically unaware of how their funds are used. Most do not reach their intended beneficiaries and are instead used to pursue the illegal activities to subvert the state.

The tuition fees collected from the students that attend FETÖ affiliated educational institutions in Turkey and foreign countries also have been one of the financial sources of the organization.

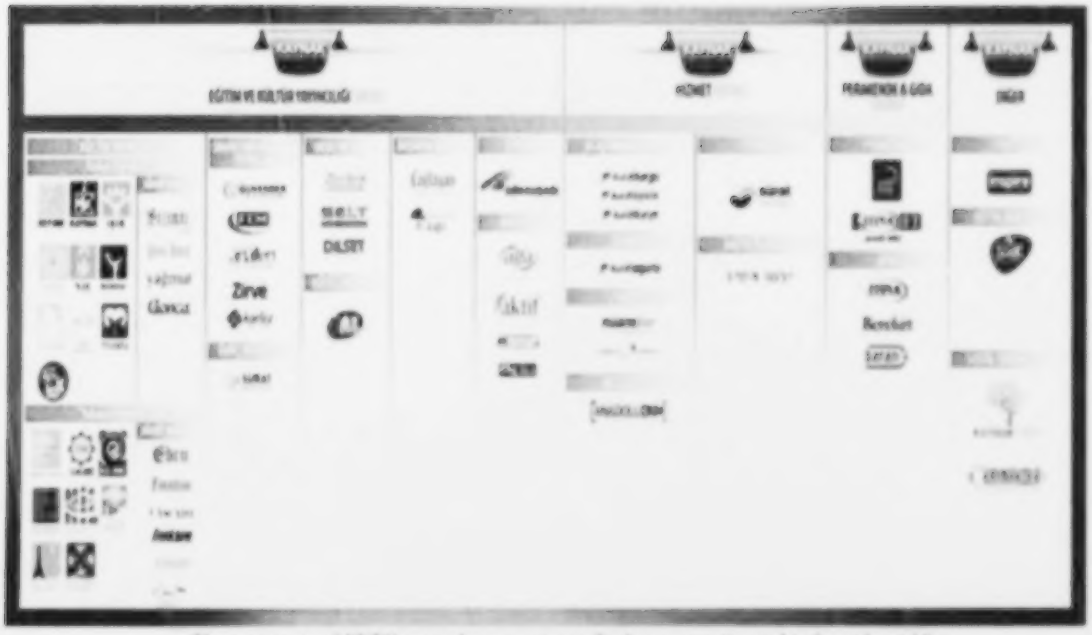
In addition, the organization is financed by the fees regularly collected from the members and affiliated entities.

Money collected by the trustees of Gülen is, then, used as seed capital for the establishment of Gülenist firms and companies.

The main conglomorate of FETO for this operation was KAYNAK holding.

BANK ASYA was the main financial instrument of the Organization.

Companies owned or sympathetic to FETÖ were also brought under the umbrella of TUSKON (Turkey Businessman and Industrialists Confederation).



The net assets of FETÖ-owned companies in Turkey was estimated to be at least 10 billion US Dollars, while the global capital of FETÖ is estimated to be in 50-100 billion Dollars.

This money is managed by the organization behind the doors. These corporations, far beyond being real actors, and instead of playing like rational actors in the free market, carry out the instructions of the organization's "elder brothers".

The businesses that are established with seed money from and managed by the organization also make monetary contributions to the organization.

The names of the real owners of the organization's trade corporations, unions and foundations do not appear in the legal documents. In fact, after December 17, 2013 the ownership of these were swiftly taken over by the undisclosed members of FETÖ in order to decrease the visibility of the organization and move it further underground. Meanwhile, in order to prevent the appointment of a government trustee, some members of FETÖ have rapidly converted their possessions and assets into cash by selling their businesses. The ownership of the companies and personal assets of the members of the organization were then fraudulently passed to third parties to prevent seizure of the assets by the law enforcement authorities. The acquisitions of this kind of fraudulent transactions were transferred to third countries.

The organization also provided state funds to its own members and companies under the name of promotion, support or premium from many of the public institutions.[1]

FETÖ-linked state officials abused their authority by suppressing, blackmailing and threatening businessmen and traders, industrialists and even artists and models for funding *the FETÖ activities. They extorted money from businessmen and big companies in mafia* fashion under the cover of "benevolent contribution, scholarship or sacrifice money". This economic wealth acquired by deceiving people behind a religious mask, by begging, or by using a kind of usurpation was being transferred to the organization institutions.

[1] For instance, techno-cities of universities, Social Support Projects (SOBIL's), supports of technology and Innovation Support Programmes (TEYDEP's) and Research Support Programmes (ARDEP's), direct income support in agriculture, stockbreeding supports, donations and supports given to cooperatives and unions, health support projects were extended to the FETÖ entities without any supervision and inspection.

FETÖ punished businessmen who refused to make donations through extraordinary controls, fake reports, judicial or administrative investigations. For instance, through its members infiltrated into the judiciary and the police, it demanded donations from the businessmen who were being investigated and promised to close down the investigation files in return.

7. CRIMES OF THE FETÖ

Currently Fetullah Gulen himself is the prime suspect in different criminal indictments.

The recent probes into the activities of the FETÖ by Public Prosecutor's Office have shown that under the banner of service, tolerance and humanitarian organizations, FETÖ and Fetullah Gulen have established and managed an illegal organization;

- exposing confidential information belonging to state for political or military espionage purposes,
- violating the confidentiality of private life,
- unlawful recording of personal information,
- forgery of official documents, fabricating criminal cases,
- destroying evidence,
- money laundering,
- Murder

Sham Trials of Ergenekon, Sledgehammer and Balyoz Espionage

FETÖ used its adherents to launch judicial and administrative investigations based on forged evidence against certain people to discredit or force them to work with them.

The involvement by the Gulenist judges and police during the Ergenekon, Balyoz (Sledgehammer) and other high profile cases are the main examples. (For reference, an information note on the Sledgehammer Trials is attached)

In these cases, military officials, opposition parliamentarians and journalists were accused of plotting a violent coup to oust the government. It later turned out that these cases were based on fabricated evidence, and that most such fabrications were produced by the Gulenists in the police.

The Gulenist media, in particular TARAF and ZAMAN, were instrumental in shaping the public opinion during these operations.

Cheating at the Public Service Exam Examinations

In 2010, upon the orders from Fetullah Gulen, the exam questions and answer keys of the Public Personnel Selection Examination (KPSS) were stolen and handed out to the certain FETÖ members. The members with high scores were placed strategically in the critical state bodies. Judicial investigation into this case is continuing.

Money Laundering

Respect Institute is an entity founded by FETÖ in the USA. The Public Prosecutor in Ankara conducted an investigation into a large scale money transfer from Turkey to Respect Institute between 2013-2015.

The total amount in question was 2.112.351.000 US Dollars. It was transferred by 147 individuals in small installments.

The investigation revealed that the money in question was collected by FETÖ under the guise of religious donations, the real source of the fund was not registered at the legal authorities. Then, FETÖ transferred the money to the account of the Respect Institute in the

United States in small installments by using the names of 147 people who worked in different FETÖ-owned companies. The installments were around 10,000-15,000 Dollars.

In some cases, the "lender" was not even aware that his name was used by the organization.

The scheme was a typical "smurf transaction", a method used for money laundering purposes by criminal organizations.

Upon these findings, a judicial investigation was initiated against those involved in the transaction. 22 people were detained.

The 15 July Coup Attempt

It is clear that FETÖ was behind the coup attempt in Turkey. It was led by a network of military officers of varying ranks who are affiliated with the Group. It was also supported by non-military individuals and groups known to be affiliated to Gülen.

Presence of FETÖ members in the military had been suspected for a long time.

Ahmet Zeki Üçok, a military prosecutor, carried out a comprehensive investigation into the Gülenists in the armed forces in 2009. He discovered a large secret network within the army. He identified many members of this organization by their names. However, he could not complete his investigation as he was detained on the grounds that he tortured certain witnesses by "hypnotizing" them and also as part of the Sledgehammer case. He spent almost five years in prison. Immediately after the botched coup attempt, he publicly declared that the leaders of the coup matched perfectly the list that he had prepared in 2009. Referring to the F-16s that bombed the Turkish parliament he recalled the words of now-retired Col. Necdet Bayoğlu: *"We are now very strong. We have F-16s. F-4s that will take off with a single order of Fetullah Gülen."* Üçok's findings were corroborated by many soldiers who fought against the coup attempt or by those soldiers who were the victims of the Sledgehammer case.

There are other crucial findings pointing to direct FETÖ involvement in the coup attempt.

Testimonies of Chief of General Staff

On the night of 15 July, as the coup was progressing, Gülenist officers leading the coup urged General Hulusi Akar, Chief of General Staff, to speak directly to Fethullah Gülen, hoping to persuade him to join them, according to General Akar.

Testimonies of Lt. Col. Levent Türkkan, aide de camp of the Chief of General Staff

Lt. Col. Levent Türkkan has been the aide of the Chief of General Staff Gen. Hulusi Akar and the former Chief of Staff for many years. On the eve of the coup plot, he was among those plotters who apprehended General Akar forcefully at the General Staff Headquarters.

After the coup was thwarted, Lt. Col. Türkkan was taken into detention. In his testimony, he has confessed his affiliation with the Fethullah Gülen group and explained in detail how the coup attempt was orchestrated.

According to his testimony, he confessed being a member of the Gülen Movement since young age.

He passed the military school examinations in 1989, with the help of the organization that provided the test questions to him one night before the examination.

He obeyed the orders of FETÖ after becoming the aid to the top military commander, such as wiretapping both the present and former Chiefs of Staff on a regular basis.

He revealed the names of other Gülen-linked officers, including the Chief of the Cabinet who actively took part in the coup attempt.

Presence of Gülen-linked civilians at the Akıncılar Air base in Ankara during the plot attempt

The prosecutors have submitted their indictment regarding plotters who have played an active role at the center of the coup attempt, Akıncılar air base near Ankara.

In the indictment, it was established that at least four civilians were present at the Akıncılar military base on the night of 15 July:

- Adil Öksüz, a professor of theology, known to be the "imam" of FETÖ for the airforce
- Kemal Batmaz, CEO of a Gülenist company
- Hakan Çiçek, owner of FETÖ-affiliated school in Ankara
- Hasan Biniş, former employee at the Information and Communication Technology Authority, who was then accused of wiretapping the phones of senior government officials
- Nurettin Uluaç, "Gladyo-cleric"

Adil Öksüz and Fetullah Gülen

Their images were captured by the security cameras at the Akıncılar air base.

Prosecutors also revealed that Adil Öksüz and Kemal Batmaz travelled several to the US in 2015 and 2016, latest one being on 11-13 July, just two days before the coup attempt. Before each US visit, Adil Öksüz travelled to Ankara to hold meetings with the Gülenist officers in the army. Locations of these secret meetings in Ankara have been established by the prosecutors.

Former police officials who were dismissed due to their links with Gülen participated in the plot

There are concrete findings that on the night of 15 July, some police officials who were previously dismissed from the Turkish national police because of their affiliation with the Gülen group, actively participated in the coup attempt together with the military plotters.

During the course of the coup attempt, there was intense communication between the military plotters and these police officers.

During the coup attempt, several ex-police officers were seen on locations in proximity to critical locations such as the TRT (Turkish Radio and TV institution) and the Police Intelligence Headquarters in Ankara. One of them was captured. His telephone records revealed several WhatsApp correspondences between the FETÖ members, including orders to support the coup attempt.

Gulen. Aktepe had been the deputy in the intelligence department of the Turkish Police until he was suspended of his duty in 2014. He was captured while trying to take over the National Police HQ with the army officers on the night of the failed coup. Aktepe said he received a message that read: "The coup has taken place. For assistance, everyone must go near to the places they used to previously work." Aktepe said the FETO provided him with 4,500 TL (around $1400) every month after he was dismissed from his position.

There were similar cases in Istanbul. Mithat Aynaci was a police chief in Istanbul until 2013, when he was dismissed for his role in the two FETO-linked investigations against several government officials and politicians. When tanks were heading to Istanbul police headquarters, Aynaci was found in one of the tanks. A video recording shows Aynaci, wearing a military officer uniform, entering the tank, and another one shows him forcefully pulled from the tank.